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OFFICE OF NATIONAL RECOVERY ADMINISTRATION

DIVISION OF REVIEW

THE CONTENT OF NIRA ADMINISTRATIVE LEGISLATION

PART A: EXECUTIVE AND ADMINISTRATIVE ORDERS

By

RUTH AULL

WORK MATERIALS NO. 35

Work Materials No. 35 falls into the following parts:

Part A: Executive and Administrative Orders
Part B: Labor Provisions in the Codes
Part C: Trade Practice Provisions in the Codes
Part D: Administrative Provisions in the Codes
Part E: Agreements under Sections 4(a) and 7(b)
Part F: A Type Case: The Cotton Textile Code

Special Studies Section

February, 1936

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OFFICE OF NATIONAL RECOVERY ADMINISTRATION

DIVISION OF REVIEW

THE CONTENT OF NIRA ADMINISTRATIVE LEGISLATION

PART A: EXECUTIVE AND ADMINISTRATIVE ORDERS

By
RUTH AULL

SPECIAL STUDIES SECTION
February, 1936

THE CONTENT OF NIRA ADMINISTRATIVE LEGISLATION

PART A

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F O R E W O R D

The object of this study is to set forth in convenient form the substantive content of administrative legislation under the authority of Title I of the National Industrial Recovery Act as found in the orders, codes and agreements. Part A, prepared by Ruth Aull, is concerned with Executive and Administrative Orders and in some cases, Office Orders and Memoranda, legislative in nature; Part B, prepared by Ruth Reticker, with the labor provisions in the codes; Part C, prepared by Daniel S. Gerig, Jr. and Beatrice Strasburger, with the trade practice provisions in the codes; Part D, prepared by C. W. Putnam, with the administrative provisions in the codes; Part E, prepared by Ruth Aull, with the provisions of agreements under Sections 4(a) and 7(b); and Part F, prepared by Ruth Aull, with a type case: the Cotton Textile Code. The work was under the general charge of G. C. Gamble, Coordinator of the Special Studies Section.

Title I of the National Industrial Recovery Act delegated to the President unprecedented powers with respect to regulation of industry and trade. The theory of the Act was that through the sponsorship of codes by trade or industrial associations or groups, and through voluntary agreements, such regulation would be cooperative with industry and trade.

By Section 2(b) of the Act the President was authorized to delegate any of his functions and powers to such officers, agents, and employees as he might designate or appoint. This power of delegation was widely exercised and through the administrative activities of the National Recovery Administration, established by the President under Section 2(a) of the Act, 557 so-called industry or trade codes and 188 codes supplementary to the basic codes came into being. These codes were approved under the authority of Section 3(a) of the Act. In addition a smaller but none-the-less considerable number of agreements was entered into under Sections 4(a) and 7(b) exclusive of the President's Reemployment Agreement, based on Section 4(a), which was "accepted" by more than 2,000,000 employers. The codes were to be as binding as any Act of the Congress, and the code-making administrative processes under the Act may aptly be described as sub-legislative.

The Supreme Court in its decision on the Schechter case, which terminated the existence of the codes, referred to the legislative aspects of the code-making process in saying:

> "It (the statutory plan) involves the coercive exercise of the law-making power. The codes of fair competition which the statute attempts to authorize are codes of laws. If valid, they place all persons within their reach under the obligation of positive law, binding equally those who assent and those who do not assent."

The agreements entered into under the Act, at least with respect to the administrative steps leading to approval, were less clearly legislative, but the agreements under both Sections 4(a) and 7(b) constituted, to the extent they were used, the detailed and substantive expression of the legislative intent. Furthermore, the position taken by the National Recovery Administration that the phrase "same effect as a code of fair competition" used in Section 7(b) referred to the fact that the agreement when approved should carry the penalty provisions of the act, would, if sustained, give such agreements legislative aspects identical with those of the codes.

In the administration of the National Industrial Recovery Act many orders were issued which affected the actions or interests of persons not connected with the National Recovery Administration or affected the provisions of codes. The Executive Orders issued by the President and the Administrative Orders issued by the Administrator for Industrial Recovery or in the name of the National Industrial Recovery Board bearing on the administration of Title I of the Act were, with a few exceptions, issued under the authority of the Act itself or under the delegation of power permitted by Section 2(b). A substantial percentage of such orders, through the nature of their provisions, were legislative. Within the National Recovery Administration Office Orders or Office Memoranda were issued primarily as instructions to or for the guidance of the personnel of the organization or for the purpose of establishing parts of the organization. Some of these orders nevertheless contained provisions or requirements which directly affected code provisions or indicated requirements upon members of industry and in their scope seemingly may be called legislative in nature.

It will be observed that the provisions of the National Industrial Recovery Act constituted a very small portion indeed of the great volume of administrative legislation under the Act. The substance of the administrative legislation is to be found in documents formulated from various types of administrative action.

The study is not concerned with evaluation of this administrative legislation; it is not concerned with evaluation of its consequences. Such issues are treated in other studies. This study is confined to a statement of the content of the NIRA administrative legislation.

At the back of this report a brief statement of the studies undertaken by the Division of Review will be found.

L. C. Marshall
Director, Division of Review

February 17, 1936

THE CONTENT OF NIRA ADMINISTRATIVE LEGISLATION

P A R T A

Introduction

This part of the study sets forth the substantive content of Executive and Administrative Orders and, in some cases, of Office Orders and Memoranda issued under authority of Title I of the National Industrial Recovery Act or in the course of its administration which were legislative in nature and related to activities of the National Recovery Administration. Administrative or other orders issued under particular codes are not included in this portion of the study.

Chapters I to XXII inclusive are concerned with those orders whose origin is traceable to specific sections of the National Industrial Recovery Act; Chapters XXIII to XXV inclusive, with those orders lacking statutory basis in the Act.

Executive Orders are signed only by the President of the United States. Under Title I of the National Industrial Recovery Act, Executive Orders were the media for delegating the powers and duties of the President as authorized by Section 2(b), approving codes under Section 3(a) and agreements under Section 4(a), issuing rules and regulations under Section 10(a), and canceling or modifying codes, agreements and regulations under Section 10(b).

The general X- series of Administrative Orders were issued by the Administrator for Industrial Recovery and, after the appointment of the National Industrial Recovery Board, in the name of the Board by the Administrative Officer. However, there were a few exceptions as the Chairman and the Executive Secretary of the National Industrial Recovery Board each signed at least one Administrative Order. After delegation of powers to the Administrator by the President, Administrative Orders were the instruments of the administration of such delegated powers. In many instances, Administrative Orders were complemental to Executive Orders -- e.g., Executive Order 6723, which provided for the suspension of certain provisions of such service trades codes as were designated by the Administrator who made the designations in Administrative Orders X-37, X-50 and X-54. In addition, thousands of Administrative Orders, and some Executive Orders, were issued under the various codes bearing the code and serial numbers by way of identification. This type of order was issued in granting or denying petitions for exemption, in interpreting code provisions, in appointing members of code authorities and, in short, in giving effect to the numerous administrative decisions under codes, and were in most cases signed by the Division Administrators to whom authority had been delegated by the Administrator.

Office Orders were issued by the Executive Officer, later by the Administrative Officer under authority of the Administrator, and occasionally by the Administrator. Many Office Orders dealt with procedural or organizational matters, but they were used also to set forth requirements as to code provisions. (*)

(*) E.g., see pp. 8-11, below.

Office Memoranda were issued by the Executive Officer, later by the Administrative Officer, and were largely instructional in nature. Some of them, however, suggested clauses for inclusion in codes, (*) some imposed requirements upon code authorities, (**) and some delegated authority to various Deputy Administrators. (***)

(*) E.g., see p. 8 et seq., below.

(**) E.g., see pp. 70, 71 and 72, below.

(***) E.g., see p. 36, below.

PART A

CHAPTER I

A. DECLARATION OF POLICY

Section 1

Section 1 of Title I of the National Industrial Recovery Act (Public 67 of the 73rd Congress) follows:

> "A national emergency productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare and undermines the standards of living of the American people, is hereby declared to exist. It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources."

B. EXPIRATION OF ACT

Section 2(c)

Section 2(c) provided that Title I was to cease to be in effect and any agencies established thereunder were to cease to exist at the expiration of two years after the date of enactment of the Act, or sooner if the President by proclamation or the Congress by joint resolution should declare that the emergency recognized by Section 1 had ended.

No Executive Orders were issued under authority of this Section.

On June 14, 1935, Public Resolution 26 of the 74th Congress was approved by the President. This resolution, among other things, changed the date of expiration of the Act to April 1, 1936.

CHAPTER II

ADMINISTRATIVE AGENCIES

Section 2(a)

Section 2(a) of the Act (*) authorized the President "to establish such agencies, ... to appoint, without regard to the provisions of the civil service laws, such officers and employees, ... as he may find necessary, to prescribe their authorities, duties, responsibilities and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers and employees so appointed."

Executive Order 6173 of June 16, 1933, appointed the Administrator for Industrial Recovery, and a Special Industrial Recovery Board, composed of the Secretary of Commerce as Chairman, the Attorney General, the Secretaries of Agriculture and Labor, the Director of the Budget, the Administrator for Industrial Recovery and the Chairman of the Federal Trade Commission.

Following the resignation of the Administrator, Executive Order 6859, September 27, 1934, created the National Industrial Recovery Board and appointed five members and two ex-officio members. Executive Order 6993 of March 21, 1935, added two full-fledged members to the Board.

Following the Supreme Court decision in the Schechter case the National Industrial Recovery Board was terminated and an Acting Administrator was appointed by Executive Order 7075 of June 15, 1935, to provide for the continuing administration of the provisions of Title I of the National Industrial Recovery Act as amended by Public Resolution 26, approved June 14, 1935. The same order established the Division of Review and the Division of Business Cooperation and appointed the Directors thereof. The Advisory Council was also thereby established and its members appointed.

(*) "The Act" as hereinafter used refers to Title I of the National Industrial Recovery Act, approved June 16, 1933. See Appendix I.

CHAPTER III

DELEGATION OF POWER BY PRESIDENT

Section 2(b)

In classifying the various orders according to their subject matter, those delegating various powers must necessarily be considered both in this section on the delegation of power by the President and in the sections relating to the types of powers delegated. In order to avoid too much duplication this section sets forth briefly orders by which the President delegated powers, while orders further delegating powers are set forth in the sections dealing with the subject matter thereof. Moreover, orders having a bearing on NRA activities delegating powers of the President to the Secretary of Agriculture are not considered in this portion of the study but in connection with the section of the Act specifically providing for the delegation of functions to the aforementioned official.

Section 2(b) of the Act provided that "the President may delegate any of his functions and powers ... to such officers, agents, and employees as he may designate or appoint..."

The Administrator for Industrial Recovery was appointed by Executive Order 6173, June 16, 1933, and was to "have authority, subject to the general approval of the Special Industrial Recovery Board, to appoint the necessary personnel on a temporary basis to conduct hearings and to do such other and necessary work as authorized."

By Executive Order 6205-A, July 15, 1933, the Administrator was authorized "to appoint the necessary personnel on a permanent basis, to fix their compensation, and to conduct such hearings and to exercise such other functions as are vested in (the President) by Title I of said Act, except the approval of codes, etc."

Executive Order 6205-B of the same date gave to the Administrator authority to stay the application of a code to persons who had not participated in establishing or consenting to a code if application was made by affected persons within ten days after the effective date of the code.

By Executive Order 6337, dated October 14, 1933, the President authorized the Administrator for Industrial Recovery "to prescribe such rules and regulations as he may deem necessary to supplement, amplify, or carry out the purposes and intent of the rules and regulations prescribed" in that order and "to take such other steps as he may deem advisable to effectuate such rules and regulations or any rules and regulations so prescribed by the Administrator, and to appoint personnel and delegate thereto such powers as may be deemed necessary to accomplish the purposes of this order."

Executive Order 6353 of October 23, 1933, among other things, empowered the Administrator "to make such preliminary investigations as he

may deem advisable with reference to matters relating to relief under section 3 (e)" of the Act. The Administrator was also to "prescribe regulations to govern the making of complaints under said section 3(e)".

The Administrator was authorized by Executive Order 6439, November 18, 1933, to adopt a seal for NRA and copies of all documents authenticated thereunder by the Administrator or anyone duly appointed by him were to be admitted in evidence equally with the originals thereof. Pursuant to the authority thus granted, the Administrator forthwith adopted a seal and appointed a certification clerk by Administrative Order X-1, November 20, 1933.

Executive Order 6443, November 22, 1933, authorized the Administrator to make such modifications of, grant such exceptions to and exemptions from agreements entered into under Title I of the National Industrial Recovery Act; this authority, however, was not to relate to modification of codes of fair competition.

The President delegated to the Administrator by Executive Order 6543-A, December 30, 1933, the power to approve codes for industries other than those employing more than 50,000 employees and other than those imposed under Section 3(d) of the Act. The same order gave the Administrator authority to approve "any amendment or modification to, exception or exemption from, or elimination of any one or more provisions of any code of fair competition."

The Administrator was authorized by Executive Order 6590-A, February 8, 1934, to "prescribe rules and regulations governing amendments to, modifications of, exceptions to, exemptions from, stays of, and other forms of relief from, codes of fair competition."

Executive Order 6590-B, also issued February 8, 1934, authorized the Administrator to "prescribe rules and regulations requiring persons subject to codes .... to post or display the terms and provisions of said codes ...."

Executive Order 6723, May 26, 1934, directed that all provisions in codes of such service trades as should be thereafter designated by the Administrator were to be suspended, until further orders, except provisions governing child labor, maximum hours of work and minimum rates of pay and the mandatory provisions of sections 7(a) and 10(b).

By Executive Order 6750-A of June 27, 1934, the Administrator was delegated "the power to enter into agreements ... with persons engaged in a trade or industry" in the Territories of Puerto Rico, Hawaii or Alaska, if in his judgment such agreements would aid in effectuating the policy of the Act with respect to transactions in or affecting interstate or foreign commerce and would not tend to promote monopolies or eliminate or oppress small enterprises.

Following the resignation of the Administrator, the National Industrial Recovery Board was created by Executive Order 6859 (September 27, 1934) and was authorized "subject to the general approval of the Industrial Emergency Committee (created by Executive Order 6770, June 30, 1934, which order was subsequently amended by Executive Orders 6860 and 6889-A of September 27 and October 29, 1934, respectively), to promulgate administrative policies, to appoint, employ, discharge, fix the compensation.

define the duties and direct the conduct, of the personnel necessary for its administration and to exercise all those powers heretofore conferred by Executive Orders upon the Administrator for Industrial Recovery."

The National Industrial Recovery Board was terminated and the office of Administrator of the National Recovery Administration was created by Executive Order 7075, June 15, 1935. The Administrator was to administer the provisions of Title I of the Act as amended by Public Resolution 26, approved June 14, 1935, and was to exercise all those powers theretofore conferred by Executive Orders upon the National Industrial Recovery Board, subject to the limitations upon such powers contained in Public Resolution 26.

CHAPTER IV

CODE APPROVAL AND SUBSTANCE

Section 3 (a)

This portion of the study sets forth the substantive content of the various orders issued concerning code approval, the provisions which were from time to time required to be inserted in codes, and those modifying to some degree codes previously or thereafter approved.

Section 3(a) of the National Industrial Recovery Act provided that

> "Upon the application to the President by one or more trade or industrial associations or groups, the President may approve a code or codes of fair competition for the trade or industry or subdivisions thereof, represented by the applicant or applicants, if the President finds (1) that such associations or groups impose no inequitable restrictions on admission to membership therein and are truly representative of such trades or industries or subdivisions thereof, and (2) that such code or codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title: Provided, That such code or codes shall not permit monopolies or monopolistic practices; Provided further, That where such code or codes affect the services and welfare of persons engaged in other steps of the economic process, nothing in this section shall deprive such persons of the right to be heard prior to approval by the President of such code or codes."

A memorandum from the Executive Officer to all deputies and staff members of September 11, 1933, set forth that minimum price and fair practice provisions in codes should not be so phrased as specifically to exempt articles in export trade. It was also stated that the mere fact that articles were manufactured for export should not exempt them from labor provisions. In brief, exemptions were to be granted only upon showing of hardship under an existent code provision and not by the code per se.

Office Order 34 of September 12, 1933, anticipated Executive Order 6479 by almost three months in requiring all codes thereafter submitted to contain the following provisions re statistical reports:

> "In addition to information required to be submitted to the code authority, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3(a) of the National Industrial Recovery Act."

The same Office Order instructed all deputies to advise industries already under approved codes that no provision of any code relieved any industry from the obligation of continuing to make customary statistical reports to government departments and to supply any additional information "the Administrator may from time to time deem necessary ..."

Executive Order 6479 of December 7, 1933, referred to above, which should have preceded instead of following the aforementioned Office Order, reiterated in large part the phraseology of the Office Order and added but one proviso - that all codes theretofore approved were modified to require code authorities and "all or any of the persons subject to such code(s) ..... (to) furnish such statistical information as the Administrator may deem necessary." (This order, affecting as it did codes previously approved, can be considered to have been issued under the authority of Section 10 (b) of the Act.)

Office Order 38 (October 24, 1933) prescribed that codes thereafter were to make the following provisions for the constitution of code authorities: members of the code authority representing the industry were to be chosen by the industry by a method properly devised in each case to insure representation of all interests. In case selection by the industry was impossible due to conditions peculiar to the industry, appointment by the President might be made. Further, the government was to be represented on code authorities by from one to three members without vote to be appointed by the Administrator. At least one of these was to have had a background of experience in the industry or in an allied industry but without interest at the time "or embarrassing previous connection therewith." Questions of the number of members to represent the government in the case of each code and the qualifications to be required were to be referred to the Administrator for decision. Government members were to be appointed for terms of six months to one year but the terms on a given code authority were to be so arranged as not to expire at the same time.

An unnumbered Office Memorandum of November 22, 1933 -- in addition to provisions irrelevant to this study -- provided that thereafter provisions in codes vesting duties in certified public accountants were to read "by a certified public accountant or by an accountant having the equivalent in qualifications and ability ..... provided, however, that as to any service to be performed in any particular state ..... such accountant in any event shall have the qualifications required by law in such state ....." Apparently this proposed code provision was not entirely acceptable to all concerned because on January 29, 1934, another unnumbered Office Memorandum was issued "in answer to objections" to the previous one which suggested the following wording: "by a certified, registered, chartered, or any other lawful practitioner of public accountancy."

Executive Order 6464 was issued November 27, 1933, because of "confusion and misapprehension" which had arisen regarding the meaning of certain commercial bribery provisions included in codes theretofore approved. That order interpreted all such provisions to mean the following, and further provided that future provisions were to conform:

> "No member of the industry shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. Commercial bribery provisions shall not

be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined."

In other words, as the order further stated, such provisions were not intended to interfere with an industry dealing specifically with the subject of premiums in any way it might have proposed if approved by the President.

Office Order 54, January 5, 1934, provided that persons affected by provisions of a code to which they were not subject were entitled to register objection at the public hearing on such code and, "after having registered such objection, to confer and seek to agree with the proponents of the code in question."

Office Order 63-B, January 27, 1934 (a revision of Order 63-A, of the same date, which in turn revised Order 63 issued two days previously) provided that any provision for a waiting period before filed prices became effective in codes not yet approved was to be stayed for sixty days by the order of approval pending completion of a study of open price associations.

An unnumbered Office Memorandum of January 27, 1934, concerning NRA review of acts of code authorities, prescribed the inclusion of the following provision in subsequent codes:

"If the Administrator shall determine that any action of a code authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such code authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form."

An unnumbered Office Memorandum of January 29, 1934 announced that:

"The following has been adopted as a standard clause providing for uniform cost accounting and may be used also as a substitute for similar clauses in approved codes if the industries desire to change:

'The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the industry. After such system and methods have been formulated, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such methods.'"

Office Order 66, February 2, 1934, in part provided:

"It is desired that the following paragraph be recommended to all industries who are in the course of formulation of new codes or the revision of approved codes for inclusion among the powers and duties of the code authority:

> 'To appoint a trade practice committee which shall meet with the trade practice committees appointed under such other codes as may be related to the trade/industry for the purpose of formulating fair trade practices to govern the relationships between production and distribution employers under this code and under such others to the end that such fair trade practices may be proposed to the Administrator as amendments to this code and such other codes.'"

An unnumbered Office Memorandum of February 3, 1934, provided in part:

"The following has been approved as a standard provision for codes relating to limitation of prices:

> 'When the Code Authority determines that an emergency exists in this industry and that the cause thereof is destructive price-cutting such as to render ineffective or seriously endanger the maintenance of the provisions of this Code, the Code Authority may cause to be determined the lowest reasonable cost of the products of this industry, such determination to be subject to such notice and hearing as the Administrator may require. The Administrator may approve, disapprove, or modify the determination. Thereafter, during the period of the emergency, it shall be an unfair trade practice for any member of the industry to sell or offer to sell any products of the industry for which the lowest reasonable cost has been determined at such prices or upon such terms or conditions of sale that the buyer will pay less therefor than the lowest reasonable cost of such products.
>
> 'When it appears that conditions have changed, the Code Authority, upon its own initiative or upon the request of any interested party, shall cause the determination to be reviewed.'"

Office Order 71, March 14, 1934, provided that the following was thereafter to be included in every code which had not at that time been formally submitted by the industry.

"Every employer shall provide for the safety and health of employees during the hours and at the places of their employment.

"Standards for safety and health shall be submitted by the code authority to the Administrator within six months after the effective date of the code."

The same order further provided that each code authority was to create a committee on safety and health to study the number and causes of accidents and health hazards in the industry and to recommend a plan for organized safety work for various types and sizes of companies and minimum standards for safety and health.

Administrative Order X-51 of June 15, 1934, follows:

> "Whenever, in accordance with the provisions of a code of fair competition, a code authority submits to the Administrator standards for safety and health and such standards are approved by the Administrator, the standards thus approved shall thereafter be part of such code and shall be enforceable as such."

An unnumbered Office Memorandum of March 19, 1934, provided that:

> "The use of premiums or coupons may be prohibited by an industry when the desire for such prohibition is general.
>
> "Prohibition of the use of premiums or coupons will not be approved where a member of the industry has been accustomed to make a proper use of premiums or coupons and objects to the prohibition."

On June 12, 1934, Office Memorandum 232 was issued which provided that there should be no general provisions in codes prohibiting the use or premiums but that the use of premiums in ways which involved commercial bribery, lottery, misrepresentation, fraud, or deception in any form was to be prohibited. Moreover, inasmuch as certain uses of premiums would constitute methods of evading trade practice provisions, code provisions prohibiting selling below cost should require that all premiums be included in the computation of cost and, similarly, open price provisions should require that all terms and conditions of sale, including premiums, be filed.

Office Memorandum 316 of December 6, 1934, concerning premiums and "free deals", in essence reiterated the provisions of Office Memorandum 232 relating only to premiums just set forth.

Executive Order 6678 of April 14, 1934, set forth a clause for inclusion in codes providing for the collection of expenses of code administration. This order and the various Administrative Orders on this subject are considered in the section on "Budgets and Assessments." (*)

Office Memorandum 212 of May 24, 1934, after pointing out that an amendment to the Lumber and Timber Products Code had been approved providing for the "establishment of rules of forest practice and the operation of forest areas on a sustained yield basis" provided that thereafter any code of fair competition covering forest operations was to include provision for conservation measures.

Appended to Office Memorandum 228, issued June 7, 1934, were code provisions concerning open price filing, costs and price cutting, and cost finding and accounting, which provisions were to be included in codes

(*) See p. 59, below.

pending at that time (*) and thereafter submitted by industries desiring those types of trade practice provisions. The provisions follow:

OPEN PRICE FILING

"Section 1. Each member of the trade/industry shall file with a confidential and disinterested agent of the code authority or, if none, then with such an agent designated by the Administrator, identified lists of all of his prices, discounts, rebates, allowances, and all other terms or conditions of sale, hereinafter in this article referred to as 'price terms', which list shall completely and accurately conform to and represent the individual pricing practices of said member. Such lists shall contain the price terms for all such standard products of the industry as are sold or offered for sale by said member and for such nonstandard products of said member as shall be designated by the code authority. Said price terms shall in the first instance be filed within __ days after the date of approval of this provision. Price terms and revised price terms shall become effective immediately upon receipt thereof by said agent. Immediately upon receipt thereof, said agent shall by telegraph or other equally prompt means notify said member of the time of such receipt. Such lists and revisions, together with the effective time thereof, shall upon receipt be immediately and simultaneously distributed to all members of the industry and to all of their customers who have applied therefor and have offered to defray the cost actually incurred by the code authority in the preparation and distribution thereof and be available for inspection by any of their customers at the office of such agent. Said lists or revisions or any part thereof shall not be made available to any person until released to all members of the industry and their customers, as aforesaid; provided, that prices filed in the first instance shall not be released until the expiration of the aforesaid ___ day period after the approval of this code. The code authority shall maintain a permanent file of all price terms filed as herein provided, and shall not destroy any part of such records except upon written consent of the Administrator. Upon request the code authority shall furnish to the Administrator or any duly designated agent of the Administrator copies of any such lists or revisions or price terms.

"Section 2. When a member of the trade/industry has filed any revision, such member shall not file a higher price within forty-eight (48) hours.

"Section 3. No member of the trade/industry shall sell or offer to sell any products/services of the trade/industry, for which price terms have been filed pursuant to the provisions of this article, except in accordance with such price terms.

"Section 4. No member of the industry shall enter into any agreement understanding, combination or conspiracy to fix or maintain price terms, nor cause or attempt to cause any member of the industry

---

(*) The requirement of inclusion in pending codes was not observed administratively in all cases and in some instances where the substance was included modification of the wording of the Office Memorandum was permitted.

to change his price terms by the use of intimidation, coercion, or any other influence inconsistent with the maintenance of the free and open market which it is the purpose of this Article to create."

COSTS AND PRICE CUTTING

"Section 1. The standards of fair competition for the industry with reference to pricing practices are declared to be as follows:

"(a) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the industry or of any other industry or the customers of either may at any time complain to the Code Authority that any filed price constitutes unfair competition as destructive price cutting, imperiling small enterprise or tending toward monopoly or the impairment of code wages and working conditions. The Code Authority shall within 5 days afford an opportunity to the member filing the price to answer such complaint and shall within 14 days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of NRA which shall render a report and recommendation thereon to the Administrator.

"(b) When no declared emergency exists as to any given product, there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

"(c) When an emergency exists as to any given product, sale below the stated minimum price of such product, in violation of Section 2 hereof, is forbidden.

"Section 2. Emergency Provisions:

"(a) If the Administrator, after investigation shall at any time find both (1) that an emergency has arisen within the industry adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the industry for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Code Authority may cause an impartial agency to investigate costs and to recommend to the Administrator a determination of the stated minimum price of the product affected by the emergency and thereupon the Administrator may proceed to determine such stated minimum price.

"(b) When the Administrator shall have determined such stated minimum price for a specified product for a stated period which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, he shall publish such price. Thereafter,

during such stated period, no member of the industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Code Authority may recommend review or reconsideration or the Administrator may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

COST FINDING AND ACCOUNTING

"Section ___. The Code Authority shall cause to be formulated methods of cost finding and accounting capable of use by all members of the industry, and shall submit such methods to the Administrator for review. If approved by the Administrator, full information concerning such methods shall be made available to all members of the industry. Thereafter, each member of the industry shall utilize such methods to the extent found practicable. Nothing herein contained shall be construed to permit the Code Authority, any agent thereof, or any member of the industry to suggest uniform additions, percentages or differentials or other uniform items of cost which are designed to bring about arbitrary uniformity of costs or prices."

Administrative Order X-61, July 10, 1934, provided that an industry at that time uncodified might apply either for the Basic Code (*) thereunder or for "consolidation and complete coverage by the existing code for the proper kindred industry, subject to stay as to applicant industry of provisions then inconsistent with policy." If an application for the Basic Code had been made by a truly representative body of the industry and if there had been no objection "by any party in material interest after ten (10) days published notice to all concerned," such code was, "without further hearing, reference to Advisory Boards or other administrative action, (to) become effective ten (10) days after its approval ...." The order further provided that if any industry not yet codified did not apply for the Basic Code or for consolidation within thirty (30) days after the date thereof and if the Administrator found that wages, hours and conditions of labor in such industry were inimical to the public interest and contrary to the policy of the Act, the Administrator would, within forty (40) days after the date thereof, provide for a hearing in accordance with Section 3 (d) of the Act to determine whether a code covering hours of labor, rates of pay, and other working conditions was not to be prescribed thereunder. (**)

Administrative Order X-62, of July 10, 1934, provided that the General NRA Code Authority was to be appointed by the Administrator and prescribed its powers and duties. The same order (***) prescribed procedure for filing prices, rebates, discounts, commissions and

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(*) See Appendix II.

(**) No administrative action was taken under the last part of this order.

(***) See Appendix III.

conditions of sale under the Basic Code. Administrative Order X-63 (*) (July 10, 1934) prescribed rules and regulations concerning wages, hours and other conditions of employment under the Basic Code.

Office Memorandum 267 (July 20, 1934) set forth code provisions which were to be substantially followed in codes providing for classification of customers, but no such proposed provision nor any classification thereunder was to be approved if it would tend to fix uniform prices, discounts, or differentials, or to establish resale price maintenance, eliminate or suppress, or discriminate against any customer or class of customers. The provisions follow:

> "The Code Authority shall cause to be formulated and keep current a classification of all types of customers of the industry. Such classification shall be subject to the disapproval of the Administrator and shall contain: (a) A complete list of all of the classes of customers of the industry, including a class to cover every known type of customer; and (b) definitions or descriptions of the several classes in terms of functions performed, or in other appropriate terms such as purchasers of defined quantities.
>
> "After submission to the Administrator, if there is no disapproval or request for suspension of action within twenty (20) days, full information concerning the classification shall be made available to all members of the industry. No one shall by intimidation, coercion, or other undue influence cause or attempt to cause the inclusion of any customer in or the exclusion of any customer from any class of customers, or the exclusion of any class of customers from the classification, or the use of uniform or stipulated prices, discounts, or differentials and each member of the industry may at all times classify his own customers in accordance with his own judgment."

Administrative Order X-130, dated January 4, 1935, interpreted provisions in codes extending minimum hourly rates of pay to piece-workers. In part, the order follows:

> "Under any such provision in any code, an employer shall compute the minimum compensation payable to each piece-work employee on the basis of a period of not more than seven consecutive days. Each employer shall pay to each of his piece-work employees for work performed by said employee during such period an amount not less than the product of the minimum hourly rate prescribed in said code multiplied by the number of hours worked by said employee during such period."

Attached to Office Memorandum 326 of January 5, 1935, were provisions to be used in codes in which it was desired to regulate advertising allowances. The provisions follow:

(*) See Appendix IV.

"No member of the trade/industry shall designate as an 'advertising allowance', a 'promotion allowance', or by a similar term, any price reduction, discount, bonus, rebate, concession, or other form of allowance, or any consideration for advertising or promotion services, offered or given by him to any customer.

"No member of the trade/industry shall offer or give any consideration merely for 'pushing', 'advertising', or otherwise than for definite and specific advertising or promotion services. Such consideration shall be given only pursuant to a separate written contract therefor, which shall specifically and completely set forth the advertising or promotion services (in such manner that their specific character may be understood by other members of the trade/industry and their customers) to be performed by the recipient of said consideration, the precise consideration to be paid or given therefor by said member, the method of determining performances, and all other terms and conditions relating thereto."

Executive Order 6949, dated January 22, 1935, resolved the moot question of the waiving of constitutional rights by assenting to a code by providing that it was understood that neither the Government nor any member of industry waived, or could properly insist that the other had waived, any constitutional right by approving, assenting to, or cooperating under a code. The approval orders of all codes theretofore approved were modified by that order to the extent necessary to make it a condition thereof and of all codes thereafter approved. (This order, affecting as it did codes previously approved, can be considered to have been issued under the authority of Section 10 (b) of the Act.)

Appended to Office Memorandum 331 (January 29, 1935) was the following provision for use in codes where members of industries or trades desired liquidated damages agreements as aids to compliance.

"Any member of the industry (trade) may enter into an agreement with any other member or members of the industry (trade) providing for the payment of liquidated damages by any party thereto upon violation by him of any provision of the Code, provided, however, that such agreement shall become effective and binding on the parties thereto only after the execution thereof shall have received the consent of the National Recovery Administration."

CHAPTER V

MAKING OF REPORTS AND THE KEEPING OF ACCOUNTS

Section 3(a)

Section 3(a) of the Act, in addition to laying the foundation for code approval procedure and the substance of codes, provided that "The President may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest ...." as he deemed necessary.

As to the making of reports, Office Order 34, dated September 12, 1933, and Executive Order 6479 of December 7, 1933, prescribed that all codes, both previously and thereafter approved, be modified to require that all persons subject to a code furnish such statistical information as the Administrator may deem necessary for the purpose recited in Section 3(a). These orders, because they deal with the substance of codes, have been treated fully in Chapter IV of this study. (*)

Pursuant to the authority given the Administrator by Executive Order 6479, Administrative Order X-10 was issued March 16, 1934, and required all persons subject to codes to "furnish, from time to time such reports concerning payrolls, employees, and man-hours worked, upon forms approved by (the Administrator) and bearing a facsimile of (the Administrator's) signature as may be requested" by the Bureau of Labor Statistics and Federal and State agencies working in cooperation therewith. The identity of the firm or individual supplying such information was not to be disclosed nor were individual reports to be disclosed to other than sworn employees of such agencies or of the National Recovery Administration.

Office Memorandum 334 of January 31, 1935, set forth procedure for statistical reporting. The NRA Research and Planning Division was to request code authorities to submit their statistical forms and procedure, and changes therein, for review and advice, and to deposit with that division two copies of all summaries of price, production, labor and other statistical data promptly upon preparation. Research and Planning was empowered to investigate the reporting systems of code authorities and to audit the statistical reports submitted by them; also to collect directly from members of industry such special information, not available elsewhere, as was necessary from time to time for recommendations on questions of policy.

There were no general Executive or Administrative Orders issued requiring industry members to keep accounts, such requirements being imposed by various individual codes. Two Office Memoranda --- an

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(*) See pp. 8, 9, above.

unnumbered one of January 29, 1934 and No. 228 of June 7, 1934 --- prescribed cost accounting provisions for inclusion in codes where industries desired such provisions. These two memoranda have been treated in Chapter IV hereof. (*)

(*) See pp. 10, 12, 15, above.

CHAPTER VI

EXEMPTIONS AND STAYS

Section 3(a)

This chapter is divided into two parts - in one of which are considered the various orders prescribing procedure and delegating powers concerning exemptions while the other sets forth the various exemptions granted by general Executive and Administrative Orders.

A. Procedure and Delegation

Section 3(a) of the act in part provided that "the President may, as a condition of his approval of any such code, ...provide such exceptions to and exemptions from the provisions of such code" as he in his discretion deemed necessary to effectuate the policy of the Act. If Section 3(a) permitted of exceptions and exemptions only at the time of code approval, then section 10(b), in providing that the President might "from time to time cancel or modify" any order or approval under the Act, appears to provide the legal basis for exemptions and exceptions at any time during the life of a code.

The President by Executive Order 6205-B, dated July 15, 1933, delegated to the Administrator authority, if justice required, to stay the application of a code if persons who had not "participated in establishing or consenting to a code" made application within ten days of the effective date for an exception to, exemption from, or modification of the code. Such persons so applying were to be "given an opportunity for a hearing and determination of the issues raised prior to incurring any liability to enforcement of the code..."

The Administrator was empowered by Executive Order 6443 of November 22, 1933, to make such modifications or grant such exceptions to or exemptions from agreements under the Act as, after investigation, he might find necessary in particular instances in order to avoid undue hardship. This authority, however, did not relate to modifications of or exemptions from codes.

The procedure for granting exemptions on account of shortage of workers was set forth in an unnumbered Office Memorandum of December 7, 1933. After stating that the cardinal principle governing decision on exemptions was to spread employment, this memorandum provided that exemptions were not to be granted unless it was demonstrated, by certificate from the state branch of the U. S. Employment Service, if possible, that there were no available competent men for the required work. The petition for exemption was to be passed on by the proper code authority whose recommendation was to be NRA's guide save in exceptional cases; the petition was to be approved by labor, industrial and legal advisers; further, a hearing was to be denied to no one and wherever practicable was to be held prior to granting an exemption but in any case the Administrator's order was to be framed so that objections could subsequently be heard. If information other than that supplied by the applicants for exemptions as to the availability of workers was not obtainable, it was considered desirable that exemptions be conditioned upon the payment of

an increased rate for all hours over those prescribed in the code. It was further provided that exemptions should be granted for the shortest practicable definite period, with possible extensions.

(This Office Memorandum apparently anticipated Executive Order 6543-A, set forth below, by freely stating that "the Administrator has the power and authority to grant these exemptions" even though Executive Order 6443, issued only two weeks earlier, expressly stated that the Administrator's authority did not extend to exemptions from codes. Furthermore, Executive Order 6205-A, dated July 15, 1933, gave the Administrator authority among other things "to conduct such hearings and to exercise such other functions as are vested" in the President by Title I of the Act, except the approval of codes, etc. The exception of code approval from the Administrator's jurisdiction by this earlier order would seem to indicate exemption-granting was likewise excepted, and the further fact that Executive Order 6443 of November 22, 1933, excluded the granting of exemptions under codes makes this positive.)

An Office Memorandum superseding that of December 7, 1933, undated, but apparently issued March 15, 1934, further provided that petitioners for exemptions on account of shortage of workers "should submit adequate information on hours, number of employees, wages, and nature of work in order to substantiate the need for exemptions." By that time, also, it was thought that "by reason of the urgency of most such requests there will be no opportunity for prior hearing" but subsequent objectors were to be heard. The concept of the "shortest practicable definite period" had also changed but it was conceded that "exemptions should be expressly subject to cancellation, in the event of showing of proper cause therefor."

By Executive Order 6543-A, issued December 30, 1933, the Administrator was delegated authority to approve any amendment or modification of, exception to or exemption from, or elimination of any one or more provisions of any code.

Division Administrators were formally given authority to grant or deny exemptions on January 16, 1934, by Office Order 60. At least, that order stated that final rulings on exemptions should be made only "by the division administrators, subject to the disapproval of the Administrator."

Administrative Order X-27 of May 5, 1934, prescribed rules and regulations concerning exemptions, the term being defined as including exceptions, stays, and "all rulings whereby an individual, group or class is released from the full operation of a provision of a code." The procedure prescribed was that all proposals for exemptions filed with the Code Authority were to be considered by it and forwarded, together with its recommendation thereon, and with reasons for such recommendation to the National Recovery Administration through the Administration Member, at the earliest possible moment and, in any event, within ten days of the filing thereof, for such action as might be found appropriate. When it appeared to the satisfaction of the Administrator that any such proposal would tend to effectuate the policies of the Act, he was to give his approval.

A portion of the Office Manual* issued on August 30, 1934, largely recapitulated the content of orders previously issued on exemptions. By that time it was recognized that "group exemptions and stays should be limited to a definite period of time, since permanent changes of this nature should be effected by code amendment", but in all cases they should be expressly subject to cancellation. No one other than a Division Administrator was authorized to grant exemptions or emergency stays and only the Administrator was to issue final rulings on stays. Applications for exemptions were to be made either to NRA or to the code authority but all applications, except those for emergency exemptions, were to be referred to the Code Authority for findings of fact, recommendations and the reasons therefor. The deputy was also to use the fact-finding facilities of the Research and Planning Division and in cases where the code authority was unable to furnish necessary facts the deputy might request the Chief of the Compliance Division to assign a field investigator to make the necessary survey. It was incumbent upon the applicant to submit adequate information on hours, number of employees, wages and nature of work to substantiate the alleged need for exemptions.

Further clarification of the exemption process was contained in Office Memorandum 319 of December 13, 1934. A petition for exemption did not automatically stay the provisions of a code except in the case of petitions within the terms of Executive Order 6205-B. The effective date of any exemption was to be fixed by the order of approval. Exemptions from labor provisions were not to be made retroactive. Violations of code provisions prior to exemptions were within the jurisdiction of the Compliance Division; hence, the chief of that division was to be consulted before granting retroactive exemptions. Petitions for exemption from hour and wage provisions on the sole claim that compliance therewith was impossible for financial reasons, even where employees were willing to agree and competitive advantages were unimportant, were to be granted only upon full evidence of great and unusual hardship. Exemptions were not to be granted on grounds of non-compliance on the part of competitors. A finding of violation was not to prejudice the right to petition for exemption but the circumstances of the violation were to be taken into consideration in action on the petition. Denial of a petition was to be considered as leaving the situation as if no petition had been made, so that the case with respect to violation and restitution was to be considered on its merits as if there had been no petition.

On April 15, 1935, under Office Memorandum 352, standard forms were issued for use as appropriate in the various types of exemption applications, subject to revision where not adaptable.

B. General Exemption Orders

Executive Order 6354, dated October 23, 1933, in releasing employers engaged only locally in retail trade or service industries who were not

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* The Office Manual, the first edition of which was issued August 29, 1934, superseded all previous Office Orders and Memoranda.

employing more than five persons and were located in towns under 2500 population from compliance with provisions of the PRA, also released such employers from obligations not voluntarily assumed under the provisions of a code approved by the President. This order was intended to relieve small business enterprises in small towns from fixed obligations which might impose exceptional hardship but it was expected, as stated in the order, that all such enterprises would conform to the fullest extent possible with the requirements which would be otherwise obligatory upon them.

Executive Order 6710 of May 15, 1934, modified Executive Order 6354 by exempting employers engaged only locally in retail trade or local service trades or industries who operated not more than three establishments and whose place or places of business was or were located in a town or towns each of less than 2500 population from those provisions of the PRA and of approved codes which related to hours of employment, rates of pay, the minimum prices at which merchandise might be sold or services performed, and the collection of assessments, except in so far as any such employer after the effective date of the order might signify to the Administrator his intention to be bound by such provisions.

Executive Order 6723 of May 26, 1934, suspended, until further orders, all provisions in codes of such service trades or industries as were thereafter designated by the Administrator, except provisions governing child labor, maximum hours of work and minimum rates of pay and the mandatory provisions of Sections 7(a) and 10(b).

Administrative Order X-37, also of May 26, 1934, designated the following service trades for inclusion within the purpose and intent of Executive Order 6723: Motor Vehicle Storage and Parking, Bowling and Billiard, Barber Shop, Cleaning and Dyeing, Shoe Rebuilding, Advertising Display Installation, and Advertising Distributing Trades.

Administrative Order X-50 of June 13, 1934, designated the Laundry Trade and Administrative Order X-54 of June 28, 1934, designated the Hotel Industry for inclusion within the intent and purpose of Executive Order 6723.

Administrative Order X-4, dated January 23, 1934, (to become effective within ten days) exempted members of industries who sold or might sell supplies or materials to hospitals of the United States which were supported by public subscription or endowment, and not operated for profit, from compliance with provisions of applicable codes governing sales. The exemption was limited to, and operative only in connection with, sales made by such members to such institutions. This order was stayed for thirty days by Administrative Order X-5, of February 2, 1934.

Administrative Order X-8, March 3, 1934, made permanent the stay of Administrative Order X-4 in so far as it affected the X-Ray and Electro-Medical Apparatus Industry as covered by the codes for the Electrical Manufacturing and Scientific Apparatus Industries and all other industries which sold a substantial part of their supplies or materials to hospitals.

Administrative Order X-24 of April 21, 1934, extended the permanent stay of Order X-4 to the Signalling Apparatus Subdivision of the Electrical Manufacturing Industry. Administrative Order X-39, May 28, 1934, provided that thenceforth members of the Bituminous Coal, Wholesale Coal and Retail Solid Fuel Industries were not exempted in any respect from full compliance with provisions of their codes in selling coal to hospitals.

While not specifically an order dealing with exemptions, Executive Order 6606-F, dated February 17, 1934, constituted in substance an exemption as to handicapped workers and therefore is here referred to. It set forth rules and regulations and provided that no code provision was to be so construed or applied as to violate such regulations. In substance the order provided that "a person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by a code, if the employer obtains from the state authority, designated by the United States Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate ... Each employer shall file monthly with the code authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee."

Administrative Order X-9, dated March 3, 1934, provided that "charitable institutions or activities thereof conducted not for profit, but for the purpose of providing remunerative employment for physically, mentally or socially handicapped workers" (which institutions and activities were thereafter referred to as 'sheltered workshops') were exempted from codes covering activities in which they were engaged, on the condition that any sheltered workshop in order to become entitled to such exemption sign a pledge that it would not: "(1) employ minors under sixteen (16) years of age, except such as are there for instructional purposes as approved by a Regional Committee .... (2) engage in destructive price-cutting or any other unfair method of competition, (3) wilfully hamper or retard the purposes of the Act.

While not termed an exemption order, Executive Order 6711-A, dated May 15, 1934, did in effect exempt certain persons from provisions of codes abolishing homework. The order provided that a person physically incapacitated for work in a factory or other regular place of business and free from any contagious disease, or a person whose services were absolutely essential for attendance on a person who was bedridden or an invalid and both such persons were free from any contagious disease, might be permitted to engage in homework at the same rate of wages as were paid for the same type of work performed in the factory or other regular place of business if a certificate was obtained from the state authority or other officer designated by the United States Department of Labor. Any employer engaging such a person was to keep such certificates on file and was to file with the code authority concerned the name and address of each worker so certificated. The order was not to apply to any codes theretofore or thereafter approved for "food or allied products trades, industries or subdivisions thereof, which contain provisions prohibiting the manufacture and/or processing of food products in homes."

Executive Order 6750-C, dated June 27, 1934 (effective July 15, 1934) was in effect an exemption from the minimum wage and maximum hours provisions of codes for members of industries employing apprentices, if certificates permitting the employment of such persons in conformity with a training program were first obtained from an agency to be designated by the Secretary of Labor. The term "apprentice" was defined to mean a person of at least 16 years of age who had entered into a written contract with an employer or an association of employers which provided for at least 2,000 hours of reasonably continuous employment for such person and his participation in an approved program of training.

CHAPTER VII

COMPLIANCE AND ENFORCEMENT
Sections 3(b), (c), and (f)

This chapter sets forth the content of orders relating to compliance and enforcement; however, orders dealing with NRA insignia and its withdrawal in the event of non-compliance are considered in Chapter XXIII, hereof.*

Section 3(b) of the Act provided that the provisions of an approved code were to be the standards of fair competition for the trade, industry or subdivision thereof, and that any violation of such standards in any transactions in or affecting interstate or foreign commerce was to be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act, as amended.

Section 3(c) of the Act invested the several district courts of the United States with jurisdiction to prevent and restrain violations of any code of fair competition approved under the Act and imposed upon the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, the duty of instituting proceedings in equity to prevent and restrain such violations.

Section 3(f) of the Act provided that any violation of any provision of an approved code in any transaction in or affecting interstate or foreign commerce was to be deemed a misdemeanor and upon conviction thereof an offender was to be fined not more than $500 for each offense, and each day such violation continued was to be deemed a separate offense. It must be noted here that Section 10(a) of the Act prescribed a fine of not to exceed $500 or imprisonment for not to exceed six months, or both, for violations of rules and regulations issued by the President under the Act.

The Act authorized voluntary codes of fair competition (Section 3(a)), mandatory codes (Section 3(d)), labor agreements (Section 7(b)), voluntary agreements (Section 4(a)), limited labor codes (Section 7(c)), and licensing (Section 4(b)). The powers given under Sections 3(d), 4(b) and 7(c) were never exercised and no penalty was provided in the Act for violations of agreements entered into under Section 4(a).**

The first order relating to the subject of compliance was Executive Order 6246, dated August 10, 1933, which provided that every contract entered into within the limits of the United States, by the United States or any of its agencies or instrumentalities for supplies mined, produced, or manufactured in the United States, was to require the contractor to comply with all provisions of the applicable approved code, or, if there was no approved code, with the provisions of the President's Reemployment Agreement, without regard to whether the contractor is himself a party to such code or agreement.

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* See p. 55, below

** However, by way of penalty, the Blue Eagle insignia was withdrawn by NRA for violation of such agreements.

Executive Order 6337, October 14, 1933, provided that no one was falsely to represent himself as discharging the obligations or complying with the provisions of the President's Reemployment Agreement or of any approved code or of any rule or regulation prescribed to carry out the purposes of the Act.

(Office Order 40, October 26, 1933, established the Compliance Division, headed by a National Compliance Director, and charged with the duty of endeavoring to adjust all complaints of violations; also, the National Compliance Board which, upon reference of complaints from the Compliance Director, was to undertake further attempts at adjustment, recommend exceptions, remove the Blue Eagle, or recommend reference to the Federal Trade Commission or the Attorney General for appropriate action.)

Office Order 51, dated December 27, 1933, instructed each Deputy Administrator to advise each Code Authority that no suit to enforce a code was to be brought without prior approval of NRA and that any litigation against a code authority was to be reported promptly to NRA, all communications to be addressed to the deputy in charge of the code.

Executive Order 6590-B, issued February 3, 1934, delegated authority to the Administrator of NRA to prescribe rules and regulations requiring persons subject to codes to post or display the terms and provisions of said codes, or otherwise bring such terms and provisions to the attention of any and all interested persons, including employees. The Administrator was further authorized to take such steps as he might deem advisable to effectuate such rules and regulations prescibed by him.

Administrative Order X-6, February 12, 1934, prescribed rules and regulations governing the posting of labor provisions of codes as follows: That every person subject to any code was to register, within thirty days of the order, the effective date of the code, or the date upon which he became subject, whichever was latest, the full name of his enterprise, together with a statement of the number of shops, establishments or separate units thereof and their location, with the code authority of the trade or industry of which he was a member. Upon registration, or as soon thereafter as was possible, each such person was to be furnished with official copies of provisions of the code to which he was subject relating to hours of labor, rates of pay and other conditions of employment, such copies to be kept conspicuously posted at all times by such person in each shop, establishment or separate unit of his enterprise to the extent necessary to make them freely accessible to all employees. The employer was also to secure from the code authority and to post alongside the copy of code provisions a certified copy of any exemption, exception or modification permitting him to pay lower wages or work his employees longer hours or establish conditions of employment less favorable to his employees than those prescibed by the subject code. No employer was to display incorrect copies of code provisions or exemptions; he was to post provisions of each code to which he was subject and was to comply with any code provisions relating to posting.

Administrative Order X-7 of February 28, 1934, superseded Administrative Order X-6 concerning regulations governing the posting of labor

provisions. The later order made it incumbent upon the employer to apply to his code authority or code authorities for official copies of labor provisions within forty-five days of the date of the order, the effective date of the code or the date upon which the applicant became subject to the code, whichever was latest. In addition, the Administrator's power to remove the Blue Eagle for failure to comply with those regulations was set forth.

Administrative Order X-82, September 1, 1934, added to the regulations governing posting of labor provisions the proviso that official copies, in addition to containing provisions of codes relating to hours of labor, rates of pay and other conditions of employment were to contain such conditions, orders, interpretations, explanations or statements issued by the President or the Administrator as part or in connection with any order approving a code or any amendment thereto relating to labor provisions; other interpretations, orders and explanations, all to such extent as NRA might deem advisable to effectuate the purposes of those rules and regulations in the case of each code.

(Office Order 74 of March 26, 1934, established the Litigation Division under the General Counsel to coordinate all NRA litigation.)

Administrative Order X-12 of March 30, 1934, provided that all industries operating under approved codes requiring the creation of agencies for the adjustment of either labor complaints and disputes*, or both, were immediately to set up such agencies unless they had already done so. Where a code required only one agency to handle either labor complaints or disputes, the industry was to create immediately another agency to handle the other type of cases. Industries operating under codes not providing for the creation of agencies to handle labor complaints and disputes were to create Industrial Relations Committees to handle both types of cases, while industries which already had Industrial Relations Committees were to report immediately to the Administrator on the personnel, scope and functioning of their committees.

(Office Order 85 of April 12, 1934, reorganized the Compliance Division, established by Office Order 40, and provided for a Chief of the Division instead of a National Compliance Director, which position was abolished.)

Administrative Order X-29, May 12, 1934, provided that all code authorities and industrial adjustment agencies theretofore authorized to handle a particular type of complaint "in the first instance" were thereby officially authorized to handle such complaints. Code authorities and industrial adjustment agencies not yet authorized to handle complaints were not to represent themselves as so authorized and were to apply for such authorization, provided, however, that all code authorities were permitted to handle complaints filed with them voluntarily by the complainant. If complaints of a character which a code authority or industrial adjustment agency was "officially authorized" to handle were filed with NRA, they were to be forwarded to the officially authorized

* Cf. Bulletin No. 7, January 22, 1934, Manual for the Adjustment of Complaints by State Directors and Code Authorities. See Appendix V.

code authority or agency unless the complainant had indicated that he purposely filed the complaint with the NRA or the substance of the complaint so indicated.

Executive Order 6711, May 15, 1934, prescribed that no employer subject to a code was to dismiss or demote any employee for making a complaint or giving evidence with respect to an alleged violation of the provisions of any code.

(Office Order 90, May 21, 1934, abolished the National Compliance Board, established by Office Order 40, and transferred its functions and personnel to the Compliance Division. Office Order 92, undated, but apparently issued June 1, 1934, created the office of Assistant Administrator for Field Administration to whom the Compliance and Litigation Divisions were to report.)

Administrative Order X-69, July 27, 1934, abrogated Administrative Order X-12.* Code Authorities that had not already done so were requested to submit to the Administrator for approval plans for the handling of labor complaints, which might be handled by a bi-partisan committee or by a committee of impartial members; in either case, the plan of organization and the personnel of the committee were subject to NRA approval. Groups of related trades or industries might cooperate in establishing a single committee; or, if an industry, due to small size or other good cause, requested that labor complaints be handled by the Compliance Division, a decision would be reached in the light of the particular facts involved. This order did not affect boards theretofore authorized to deal with labor disputes, but any industry contemplating such a board was advised to consult with the National Labor Relations Board created under authority of Public Resolution 44 of the Seventy-third Congress by Executive Order 6763 of June 29, 1934. Cases heard by boards theretofore or thereafter authorized to deal with labor disputes might be reviewed by the National Labor Relations Board.

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* See p. 28, above.

CHAPTER VIII

IMPOSED CODES
Section 3(d)

Section 3(d) of the Act provided:

> "Upon his own motion, or if complaint is made to the President that abuses inimical to the public interest and contrary to the policy herein declared are prevalent in any trade or industry or subdivision thereof, and if no code of fair competition therefor has theretofore been approved by the President, the President, after such public notice and hearing as he shall specify, may prescribe and approve a code of fair competition for such trade or industry or subdivision thereof, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of this section."

The power delegated to the President to impose codes was never exercised and no orders were issued under the authority of this section.

CHAPTER IX

IMPORTS

Section 3 (e)

Section 3 (e) of the Act follows:

"On his own motion, or if any labor organization, or any trade or industrial organization, association, or group, which has complied with the provisions of this title, shall make complaint to the President that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production of any competitive article or articles and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of any code or agreement under this title, the President may cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, and if, after such investigation and such public notice and hearing as he shall specify, the President shall find the existence of such facts, he shall, in order to effectuate the policy of this title, direct that the article or articles concerned shall be permitted entry into the United States only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any specified period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any code or agreement made under this title. In order to enforce any limitations imposed on the total quantity of imports, in any specified period or periods, of any article or articles under this subsection, the President may forbid the importation of such article or articles unless the importer shall have first obtained from the Secretary of the Treasury a license pursuant to such regulations as the President may prescribe. Upon information of any action by the President under this subsection the Secretary of the Treasury shall, through the proper officers, permit entry of the article or articles specified only upon such terms and conditions and subject to such fees, to such limitations in the quantity which may be imported, and to such requirements of license, as the President shall have directed. The decision of the President as to facts shall be conclusive. Any condition or limitation of entry under this subsection shall continue in effect until the President shall find and inform the Secretary of the Treasury that the conditions which led to the imposition of such condition or limitation upon entry no longer exists."...

(Office Order 33, dated September 8, 1933, established the Imports Division as an administrative agency to "handle all requests" to the NRA under the foregoing provision. The order further provided that an

industry was to be expected to make a prima facie case before the case would be referred to the President.)

Executive Order 6353, dated October 23, 1933, empowered the Administrator to make such preliminary investigations as he might deem advisable with reference to matters relating to relief under section 3(e) of the Act and to prescribe regulations governing the making of complaints under the said section. With reference to any complaint or preliminary investigation the Administrator was to be entitled to such sworn or unsworn information from interested parties as he might deem desirable, was to determine whether the facts disclosed appeared to warrant further investigation, and was to make recommendations to the President who would either direct that no further action be taken or that the United States Tariff Commission make an immediate investigation with such public notice and hearings as the President specified. The findings of fact, report of all proceedings, and the recommendations of the Tariff Commission were to be transmitted to the President with a copy to the Administrator who was also to make recommendations to the President concerning action to be taken.

Office Order 37, dated October 24, 1933, prescribed rules and regulations concerning the form in which complaints under Section 3(e) were to be made and attached thereto were blanks calling for detailed information concerning each commodity the imports of which were the subject of complaint. (*)

(Office Order 37-A, October 24, 1933, named the Chief of the Imports Division as the NRA official to exercise the power of the Administrator under Executive Order 6353, under supervision of the Administrator.)

An Office Memorandum, unnumbered, of November 17, 1933, prescribed that code provisions which directly or indirectly would restrict or handicap importations were to be avoided inasmuch as Section 3 (e) provided a method for relief where an industry was subjected to increasing competition from imports. Importers were to be given an opportunity to attend hearings and present their views and objections concerning any provisions possibly affecting imports.

(*) See appendix VI

CHAPTER X

VOLUNTARY AGREEMENTS

Section 4(a)

Section 4(a) of the Act authorized the President "to enter into agreements with, and to approve voluntary agreements between and among, persons engaged in a trade or industry, labor organizations, and trade or industrial organizations, associations, or groups, relating to any trade or industry, if in his judgment such agreements will aid in effectuating the policy of this title with respect to transactions in or affecting interstate or foreign commerce" and provided such agreements would not permit monopolies or monopolistic practices.

During the code period of NRA the President's Reemployment Agreement was the most important formulated under Section 4(a). Others entered into under this section of the Act were territorial and service trades agreements as well as rubber tire manufacturers' and distributors' and captive mine agreements. This portion of the study sets forth the substantive content of orders relating to (1) the President's Reemployment Agreement, (2) territorial agreements, (3) service trades agreements, and (4) voluntary agreements as authorized under Public Resolution 26 of the 74th Congress.

A. President's Reemployment Agreement

NRA Bulletin No. 3(*) dated July 20, 1933 outlined the President's emergency reemployment drive extending from August 1 to December 31, 1933, and set forth the President's Reemployment Agreement under authority of Section 4(a) of the Act. This bulletin was issued over the signature of the Administrator and approved by the Special Industrial Recovery Board. In brief, signers of the PRA agreed (a) not to employ any person under 16 years of age except that persons between 14 and 16 might be employed (but not in manufacturing or mechanical industries) not to exceed three hours per day between 7 a. m. and 7 p. m. in such work as would not interfere with hours of day school; (b) not to employ any clerical or office employes more than forty hours in any one week; (c) not to employ any factory or mechanical worker more than a maximum week of thirty-five hours until December 31, 1933, and not more than 8 hours in any one day, but with the right to work a maximum week of 40 hours for any 6 weeks within the period; (d) these maximum hours not to apply to employees in establishments employing not more than two persons in towns of less than 2,500 population nor to employees in a managerial or executive capacity; (e) not to pay any clerical or office employee less than $15 per week in cities over 500,000 nor less than $14.50 per week in cities between 250,000 and 500,000, nor less than $14 per week in cities between 2,500 and 250,000; (f) not to pay any factory or mechanical worker less than forty cents per hour unless the hourly rate for the same class of work on July 15, 1929, was less than forty cents, in which latter case not to pay less than the hourly rate on July 15, 1929, and in no event less than thirty cents per hour; and (g) not to reduce the compensation for employment not in excess of the minimum wages of the PRA.

(*) See Appendix VII

(The PRA Policy Board was appointed under Office Order 18, August 7, 1933, and was authorized to issue all PRA interpretations and to consider all petitions for substitutions of code provisions for PRA provisions.)

Executive Order 6246, dated August 10, 1933, required contractors supplying the United States or any of its agencies or instrumentalities to comply with the provisions of the PRA.*

Executive Order 6304, of October 3, 1933, modified that part of the PRA prescribing a maximum week of 35 hours for factory or mechanical workers by eliminating the permissive six-week peak period of 40 hours per week for employers who signed the PRA on or after October 1, 1933; prior signatories were not affected by this order.

Executive Order 6337, dated October 14, 1933, provided as a rule and regulation under Section 10(a) of the Act that no one was to represent himself falsely as discharging the obligations or complying with the provisions of the PRA.**

Executive Order 6354, October 23, 1933, modified any provisions of any order, approval, rule or regulation theretofore issued under the Act inconsistent therewith and provided, among other things, that provisions of the PRA were not to apply to employers engaged only locally in retail trade or service industries who do not employ more than five persons and who are located in towns of less than 2500 population, except such employers who had signed the PRA and wished to continue in compliance therewith.***

Executive Order 6710,**** dated May 15 1934, modified Executive Order 6354 by exempting employers engaged only locally in retail trade or service trades or industries who operated not more than three establishments each located in a town under 2500 population from the wage and hour provisions of the PRA, except in so far as any such employer should signify his intention of being bound by such provisions.

Executive Order 6443, November 22, 1933, authorized the Administrator to make such modifications of, and grant such exceptions to, and exemptions from, agreements entered into under the Act as he might, after investigation, find necessary in particular instances to avoid undue hardships.

Executive Order 6515, dated December 19, 1933, extended the PRA from January 1, 1934, to April 30, 1934, or to any earlier date of approval of an applicable code. Display of the Blue Eagle on or after January 1, 1934, by employers who had earlier signed the PRA was to evidence their acceptance of the PRA extension, employers who had not yet signed might still do so, and all substitutions and exemptions approved and all exceptions granted to particular employers before January 1, 1934, were to apply to the extended PRA.

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* See p. 26, above, and p. 61, below, for fuller discussion of this order

** For a fuller discussion of this order, see pp. 5,27 above and p. 55 below

*** See also p. 22, above

**** For fuller discussion of this order see p. 23, above.

Executive Order 6678-A of April 14, 1934, further extended the PRA from May 1, 1934, as to any part of an employer's business not subject to an approved code until such time as that part of his business became subject to an approved code. Employers who had not signed the PRA prior to May 1, 1934, might enter into the agreement, while display of the Blue Eagle on or after May 1, 1934, by earlier signers would evidence their continued compliance with the PRA. All substitutions and exemptions approved and exceptions granted before May 1st were to continue applicable.

B. Territorial Agreements

Originally, it was the plan to bring industries in territories and insular possessions under the same code applicable to continental United States rather than write separate codes.

An unnumbered Office Memorandum of December 1, 1933, set forth the fact that codes covered territories and insular possessions unless specifically excepted there from; therefore, unless some impelling reason for exception existed, codes were not to be limited in their general geographical application.

Executive Order 6750-A of June 27, 1934, delegated to the Administrator the power to enter into agreements, pursuant to Section 4(a) of the Act, with persons engaged in a trade or industry in Puerto Rico, and the Territories of Hawaii or Alaska, if in his judgment such agreements would aid in effectuating the policy of the Act with respect to transactions in or affecting interstate or foreign commerce and would not promote monopolies or tend to eliminate or oppress small enterprises.

Administrative Order X-60 of July 2, 1934, provided that trades and industries in the Territories of Puerto Rico and Hawaii were to be exempt from codes theretofore approved until September 1, 1934, and from codes thereafter approved for a period of six weeks following the dates of such approvals. If the Deputy Administrator for the Territory so ordered for a trade or industry, the exemption was to remain in effect only as to those who entered into and complied with an agreement under Executive Order 6750-A, so long as such agreement remained in effect. This order did not affect any exception or exemption of a specified trade or industry, or subdivision thereof, or of a specified person or persons, theretofore or thereafter granted, nor any code or modification of a code for a trade or industry in Hawaii or Puerto Rico. At any time before the expiration of a general exemption under this order any truly representative trade or industrial association or group which imposed no inequitable restrictions on admission to membership therein might apply for modification of a code or for the approval of a separate code for the trade or industry in the territory. Any person directly affected who claimed that application of a code would be unjust to him and applied for an exemption was to be given opportunity for a hearing and determination of the issues raised prior to incurring any liability to enforcement of the code and the Deputy Administrator for such territory was, if justice required, to stay the application of the code in the territory for all similarly affected pending determination of the issues involved.

Administrative Order X-80, dated August 27, 1934, approved the form of Administrator's Territorial Cooperation Agreement attached thereto as Exhibit A.*

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* See Appendix VIII

Office Memorandum 348, dated March 19, 1935, authorized the Deputy Administrator for the Territory of Hawaii to exercise all of the powers delegated to or vested in the National Industrial Recovery Board by virtue of any code theretofore or thereafter approved exclusively for the territory, except the power to approve amendments to, or codes supplementary to such code. The Deputy for Hawaii was also authorized to grant exemptions from, to stay provisions of, or to make interpretations of, codes approved exclusively for the territory. However, all action taken by the Deputy for Hawaii was to be in conformity with the rules and regulations and policy established by the NRA and was to be promptly reported to, and subject to review and disapproval by, the National Industrial Recovery Board.

Office Memorandum 356 of May 3, 1935, authorized the Deputy Administrator for the Territory of Alaska, subject to general supervision and review by the National Industrial Recovery Board, to exempt or refuse to exempt any member or members of a trade or industry on application from any provision of any code to the extent that such code applied to any transaction within the territory. Such authorization, however, did not apply to exemptions from any provisions of the codes for the Canning, Canned Salmon, Lumber and Timber Products, and Fishery Industries.

C. Service Trades Agreements

Executive Order 6723 of May 26, 1934, in part provided that in any locality in which 85% of the members of any service trade or industry, the provisions of whose code had been suspended, (*) proposed to agree with the President to abide by any local code of fair trade practices suggested by them for that locality, which schedule had been approved by the Administrator, the Administrator was authorized to make such agreement. Thereafter, no member of such industry in such locality was entitled to display appropriate NRA insignia unless he was complying with all terms of such agreement in addition to the non-suspended provisions of the code.

By Executive Order 6756-A of June 28, 1934, the President offered to enter into an agreement with the members of such service trades not theretofore codified, whereunder any member displaying appropriate NRA insignia evidenced his agreement to comply with the standards of labor approved by the Administrator, on the condition, however, that in any locality in which 85% of the members of any such trade had proposed a local code of fair trade practices, and such code having been approved by the Administrator, no member was entitled to display NRA insignia unless he was complying with all terms of such local code in addition to the said standards of labor.

(*) By Administrative Order X-37 of May 26, 1934, provisions of codes for the following were suspended:

Motor Vehicle Storage and Parking, Bowling and Billiard, Barber Shop, Cleaning and Dyeing, Shoe Rebuilding, Advertising Display Installation and Advertising Distributing Trades; Administrative Order X-50 of June 13 and Administrative Order X-54 of June 28, 1934, respectively included the Laundry Trade and the Hotel Industry among those whose codes were suspended.

Administrative Order X-53 of June 28, 1934, in part provided that local code committees for service trades, upon application to the Administrator, might be authorized to cooperate with NRA in coordination and execution of the service trades program. Schedules of fair trade practices, wherever suitable to the needs of the locality, were to conform to the practices originally contained in the designated codes, provided, however, that practices, including those relating to minimum price, were to be approved only in accordance with existing NRA policy on such matters.

D. Voluntary Agreements since June 15, 1935

After the approval of Public Resolution 26 of the 74th Congress on June 14, 1935, which left to the President authority under the Act only to enter into voluntary agreements with members of trade or industry, several Executive Orders were issued concerning such agreements. The function of the Division of Business Cooperation, established by Executive Order 7075, (June 15, 1935) was "to aid in the voluntary maintenance by trade and industrial groups of standards of fair competition, in the elimination of unfair competition in the employment of labor or in trade practices." By Executive Order 7192 of September 26, 1935, the President delegated to the Federal Trade Commission all authority vested in him to approve provisions, in the words of Public Resolution 26, "prohibiting unfair competitive practices which offend against existing law, including the anti-trust laws, or which constitute unfair methods of competition under the Federal Trade Commission Act, as amended." Executive Order 7193, issued the same day, delegated to the Coordinator for Industrial Cooperation the duty of receiving from the Federal Trade Commission "after consideration by the National Recovery Administration of the provisions proposed under Section 4(a) of the National Industrial Recovery Act as require the approval of the President .... and to present the same to the President for his consideration." (*)

(*) Executive Orders 7192 and 7193 were clarified by an Executive Statement issued September 30, 1935. See Appendix IX.

CHAPTER XI

LICENSING

Section 4 (b)

Section 4(b) of the Act, providing for the licensing of any trade or industry or subdivision thereof in order to make effective a code of fair competition or an agreement, was to expire one year after the date of enactment or sooner if the President by proclamation or the Congress by joint resolution declared that the emergency had ended. Whenever the President found that destructive wage or price cutting or other activities contrary to the policy of the Act were being practiced in any trade or industry, and, after necessary public notice and hearing, found it essential to license business enterprises in order to make a code effective, and so announced publicly, no person was, after a date fixed in such announcement, to engage in or carry on any business, in or affecting interstate or foreign commerce, unless he had first obtained a license issued pursuant to the President's regulations. Such licenses might be suspended or revoked, after due notice and opportunity for hearing, for violations of the terms or conditions thereof. Any order of the President suspending or revoking any such license was to be final "if in accordance with law." Any person who, without such a license or in violation of any condition thereof, carried on any such business for which a license was so required was, upon conviction thereof, to be fined not more than $500, or imprisoned not more than six months, or both, and each day such violation continued was to be deemed a separate offense.

No Executive Orders were issued concerning the power to license trades and industries, nor indeed was the power ever exercised.

CHAPTER XII

EXEMPTION FROM ANTI-TRUST LAWS

Section 5

The first paragraph of Section 5 of the Act provided that while Title I was in effect (or in the case of a license, while section 4(a) was in effect) and for 60 days thereafter, any code, agreement, or license approved, prescribed, or issued and in effect under that title, and any action complying with the provisions thereof was to be exempt from the provisions of the anti-trust laws of the United States.

This is another section of the Act under which no Executive or other orders were issued.

CHAPTER XIII

MANUAL LABOR

Section 5

The second paragraph of Section 5 provided that nothing in the Act, and no regulation thereunder, was to prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof; nor was anything in the Act, or regulation thereunder, to prevent anyone from marketing or trading the produce of his farm.

Likewise, no Executive or other orders were issued under authority of this section of the Act.

CHAPTER XIV

LIMITATIONS UPON APPLICATION OF THE ACT

Sections 6(a) and (b)

Section 6(a) of the Act provided that "no trade or industrial association or group shall be eligible to receive the benefit of the provisions of this Title until it files with the President a statement containing such information relating to the activities of the association or group as the President shall by regulation prescribe."

Section 6(b) authorized the President to prescribe rules and regulations designed to insure that any organization availing itself of the benefits of the Act were truly representative of the trade or industry or subdivisions thereof, represented by such organization and any organization which violated any such rule or regulation was to cease to be entitled to benefits under the Act.

No Executive or other orders were issued specifically under the authority of Sections 6(a) and (b). However, Executive Orders 6173 and 6205-A, of June 16, and July 15, 1933, respectively, delegated to the Administrator the power "to conduct such hearings and to exercise such other functions" as were vested in the President, except the approval of codes, agreements, etc. Under this general authority the Administrator had prepared application blanks (*) for the presentation of codes, which blanks, among other things, called for statistical data on the representative character of the trade association making application for a code.

(*) See Appendix X.

CHAPTER XV

FEDERAL TRADE COMMISSION INVESTIGATIONS

Section 6(c)

Section 6(c) of the Act provided that, upon the request of the President, the Federal Trade Commission was to make such investigations as were necessary to enable the President to carry out the provisions of the Act, and for such purposes the Commission was to have all powers vested in it with respect of investigations under the Federal Trade Commission Act, as amended.

Executive Order 6569, of January 20, 1934, prescribed that whenever any complainant was dissatisfied with the disposition by any Federal agency, except the Department of Justice, of any complaint charging that any person, partnership, corporation, was engaged in any monopolistic practice, or practice permitting or promoting a monopoly, or tending to eliminate, oppress or discriminate against small enterprises, which was allegedly in violation of the provisions of any code, or allegedly sanctioned by the provisions of such code but allegedly in violation of Section 3(a), such complaint was to be transferred to the Federal Trade Commission by such agency upon request of the complainant. Upon receipt of any such complaint the Federal Trade Commission might institute proceedings against such persons, partnerships, corporations, as it might have reason to believe were engaged in the aforesaid practices, whenever such proceedings would be to the interest of the public. However, if in any case the Federal Trade Commission determined that any such practice was not contrary to the provisions of the Federal Trade Commission or Clayton Acts, instead of instituting such proceeding, it was to transfer the complaint, with the evidence and other information pertaining to the matter, to the Department of Justice. The power conferred upon the Federal Trade Commission by this Executive Order was not to be construed as being in derogation of any of the powers of said Commission under existing law.

CHAPTER XVI

REQUIREMENTS CONCERNING LABOR

Section 7(a)

Section 7(a) of the Act, included in all codes as required by the provision of the Section per se, and partially administered as to compliance by the National Labor Board and subsequently by the National Labor Relations Board, follows:

> "Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President."

National Labor and National Labor Relations Boards

The creation of the National Labor Board was announced by Press Release 195 of August 5, 1933, which Board was continued by Executive Order 6511 of December 16, 1933, to settle by mediation, conciliation or arbitration all controversies between employers and employees which tended to impede the purposes of the National Industrial Recovery Act, provided, however, that the Board might decline to take cognizance of controversies between employers and employees in any trade or industry where a means of settlement, provided for by agreement, industrial code, or Federal law, had not been invoked. The Board was empowered (1) to establish local or regional boards, upon which employers and employees were to be equally represented, and to delegate thereto such powers and territorial jurisdiction as it deemed necessary; (2) to review determinations of local or regional boards where public interest so required; and (3) to make rules and regulations governing its procedure.

Executive Order 6580, dated February 1, 1934, provided that whenever a substantial number of employees in any plant or enterprise requested the National Labor Board to conduct an election to enable them to choose representatives for the purpose of collective bargaining, the Board was to make arrangements for and supervise the conduct of an election under rules and regulations prescribed by itself. If after employees' representatives had been duly elected, the Board determined that an employer declined to recognize or deal with said representatives, or was in any other way refusing to comply with the requirements of

Section 7(a), the Board was to report its determination promptly to the Administrator for Industrial Recovery for appropriate action.

Executive Order 6612-A of February 23, 1934 modified Executive Order 6580 by including an employer's interference with the National Labor Board's conduct of an election among violations of Section 7(a). Findings of violation, together with appropriate recommendations, were to be reported to the Attorney General or to the Compliance Division of NRA, instead of to the Administrator - as provided by the previous order. The Compliance Division was not to review the Board's findings but it had the power to take appropriate action based thereon.

Executive Order 6763 of June 29, 1934, created the National Labor Relations Board in connection with the Department of Labor under authority of Public Resolution 44 of the 73rd Congress and provided that the National Labor Board was to cease to exist on July 9, 1934. The new Board was authorized to investigate issues, facts, practices and activities of employers or employees in any controversies arising under Section 7(a) of the Act; to order and conduct elections; to hold hearings and make findings of fact regarding complaints of discrimination against or discharge of employees or other alleged violations of Section 7(a) whenever it was in the public interest; and to act as a board of voluntary arbitration upon the request of parties to a labor dispute.

Executive Order 7074 of June 15, 1935, continued the existence of the National Labor Relations Board until July 1, 1935; Executive Order 7090 of June 29, 1935, continued the Board until August 1, 1935; Executive Order 7121 of July 31, 1935, continued the Board until September 1, 1935; and Public No. 198 of the 74th Congress created a National Labor Relations Board and provided that upon appointment of its members the old Board was to cease to exist.

Automobile Labor Board

Administrative Order X-11 of March 26, 1934 established a board of three for the automotive industry, composed of one labor, one industry and one neutral representative, and governed by the following "principles of Settlement".

1. The employers agreed to bargain collectively with the freely chosen representatives of groups and not to discriminate in any way against any employee on the ground of his union labor affiliations.
2. If there were more than one group each bargaining committee was to have total membership pro rata to the number of men each member represented.
3. The Board was to have access to all payrolls and to all lists of claimed employee representation and in cases where no lists of employees claiming to be represented had been disclosed to the employer, there was no basis for claim of discrimination.
4. The Government made it clear that it favored no particular union or particular form of employee organization or representation, but that its only duty was to secure absolute and uninfluenced freedom of choice without coercion, restraint, or intimidation from any source.

5. The Industry understood that in reduction or increases of force, such human relationships as married men with families shall come first and then seniority, individual skill and efficient service.

Administrative Order X-26 of April 27, 1934, extended the jurisdiction of the Board to pass upon questions of representation, discharge and discrimination arising within the Automotive Parts and Equipment Manufacturing Industry as might be submitted by parties thereto.

National Steel Labor Relations Board

The National Steel Labor Relations Board was established under authority of Public Resolution 44 of the 73rd Congress by Executive Order 6751 of June 28, 1934. In connection with labor problems relating to the iron and steel industry, it was authorized to investigate, hear and determine any charges of interference, restraint or coercion of employees in the exercise of their rights as defined in Section 7(a) of the Act or Article IV of the Code for the Iron and Steel Industry; to hold elections and to have access to such payrolls and other documents as would enable the Board to prepare and certify lists of employees eligible to vote in elections; and to serve as a board of voluntary arbitration or create boards of voluntary arbitration.

Executive Order 7085 of June 24, 1935, continued the Steel Labor Board until July 1, 1935, while Executive Order 7091 of June 29, 1935, continued the Board "until further order."

Textile Boards

The Cotton Textile National Industrial Relations Board was created by Section XVII which was added to the Code for the Cotton Textile Industry August 8, 1933 and amended July 10, 1934. The Textile National Industrial Relations Board, composed of five members -- one each to be nominated by the Code Authorities for the Wool Textile and the Silk Textile Industries to represent the employers of those industries; two to be nominated by the NRA Labor Advisory Board, one each to represent the employees of those industries; and a fifth to be selected by the Administrator -- was established by Administrative Orders 3-20 and 48-8 of June 28, 1934, to conciliate and arbitrate labor controversies in those industries.

Executive Order 6840 of September 5, 1934, created in connection with the Department of Labor under authority of Public Resolution 44 of the 73rd Congress the Board of Inquiry for the Cotton Textile Industry to inquire into the general character and extent of the complaints of the workers and the problems confronting the employers in the cotton textile, wool, rayon, silk and allied industries, and to consider ways and means of meeting said problems and complaints.

Executive Order 6858 of September 26, 1934 created the Textile Labor Relations Board, composed of three Special Commissioners appointed by the President, under authority of Public Resolution 44 of the 73rd Congress in connection with the Department of Labor. The Board was authorized to investigate, hold hearings and make findings of fact as to

any alleged violation of Section 7(a) of the Act, and to refer such findings to proper governmental agencies for appropriate action; and with respect to codes for the cotton textile, silk textile and wool textile industries, to investigate, hold hearings and make findings of fact as to any alleged violations of said codes with respect to hours of work, rates of pay or other conditions of employment and to refer such findings to the proper agencies for appropriate action. Appeals on questions of law in cases involving Section 7(a) of the Act or parts of codes might be taken from the Textile Labor Relations Board to the National Labor Relations Board in cases in which (1) the Textile Labor Relations Board recommended review, (2) difference of opinion existed in the Board, or (3) the National Labor Relations Board deemed review would serve public interest. This Executive Order also abolished the Cotton Textile National Industrial Relations Board, the Textile National Industrial Relations Board and the Board of Inquiry for the Cotton Textile Industry, above referred to.

Executive Order 7084 of June 24, 1935, continued the Textile Labor Relations Board until July 1, 1935, while Executive Order 7089 of June 29, 1935, continued the Board "until further order."

CHAPTER XVII

LABOR AGREEMENTS

Section 7(b)

Section 7(b) of the Act provided that the President was, so far as practicable, to afford every opportunity to employers and employees in any trade or industry or subdivision thereof to establish by mutual agreement the standards as to the maximum hours of labor, minimum rates of pay, and such other conditions of employment as might be necessary in such trade or industry or subdivision thereof to effectuate the policy of the Act; and the standards established in such agreements, when approved by the President, were to have the same effect as a code approved by the President under Section 3(a).

There were no general Executive or Administrative Orders issued under authority of Section 7(b). Labor Agreements were entered into by the employers and employees of only two industries -- the Construction and the Bituminous Coal Industries.

CHAPTER XVIII

LIMITED LABOR CODES

Section 7(c)

Section 7(c) of the Act provided that where no mutual agreement had been approved by the President he might investigate the labor practices, policies, wages, hours of labor, and conditions of employment in any trade or industry or subdivision thereof; and upon the basis of such investigations, and after such hearings as the President found advisable, he was authorized to prescribe a limited code of fair competition fixing such maximum hours of labor, minimum rates of pay, and other conditions of employment in the trade or industry or subdivision thereof investigated as he found necessary to effectuate the policy of the Act, which was to have the same effect as a code approved by the President under Section 3(a). The President might differentiate according to experience and skill of the employees affected and according to the locality of employment; but no attempt was to be made to introduce any classification according to the nature of the work involved which might tend to set a maximum as well as a minimum wage.

No limited labor codes were prescribed, nor were any general orders issued under the authority of Section 7(c).

CHAPTER XIX

APPLICATION OF AGRICULTURAL ADJUSTMENT ACT

Section 8

Section 8 provided that Title I of the National Industrial Recovery Recovery Act was not to be construed to repeal or modify any of the provisions of Title I of the Agricultural Adjustment Act. In order to avoid conflicts in the administration of the Agricultural Adjustment Act and the National Industrial Recovery Act, the President was permitted to delegate any of his functions and powers under the National Industrial Recovery Act with respect to trades, industries or subdivisions thereof which were engaged in the handling of any agricultural commodity or product thereof, or of any competing commodity or product thereof, to the Secretary of Agriculture.

The President on June 26, 1933, by Executive Order 6182 delegated to the Secretary of Agriculture "all functions and powers (other than the determination and administration of provisions relating to hours of labor, rates of pay, and other conditions of employment) ..... with respect to trades, industries, or subdivisions thereof engaged principally in the handling of milk and its products, tobacco and its products, and all foods and foodstuffs ..... but reserving ..... the power to approve or disapprove of the provisions of any code" to the President.

Executive Order 6207 of July 21, 1933, simply reaffirmed the delegation set forth in Executive Order 6182, notwithstanding Executive Order 6205-A of July 15, 1933, which provided that the Administrator was to exercise the functions vested in the President by the Act.

The jurisdiction of the Secretary of Agriculture was widened by Executive Order 6345 of October 20, 1933, to include "up to the point of first processing off the farm" agricultural commodities -- livestock, poultry, fur-bearing animals and bees, flowers, nuts, fruits -- human and animal food, nonfood products of grains, inedible animal and vegetable oils and fats, crushing of cottonseed or flaxseed, etc. If question arose as to jurisdiction over any specific trade or industry, it was to be "finally and conclusively determined by agreement between the Secretary of Agriculture and the Administrator" or, if they did not agree, then the question was to be submitted to the President, whose decision thereon was to be final and conclusive.

Executive Order 6551 of January 8, 1934, set forth lists of trades and industries, the jurisdiction over some of which was thereby transferred to the Administrator from the Secretary of Agriculture, while others remained under the Secretary's jurisdiction. However, any functions and powers could "by written agreement between the Secretary of Agriculture and the Administrator ..... be redelegated to the Secretary or be delegated to the Administrator as the case may be." In order that certain matters could be dealt with under provisions of the Agricultural Adjustment Act without conflicting with the exercise of powers under the National Industrial Recovery Act, the Administrator's powers were limited even as to trades and industries within his jurisdiction. The Administrator was not, without the written approval of the Secretary of Agriculture, to exercise his functions and powers through the fixation or

control of prices, brokerage fees, commission rates and marketing quotas in connection with the purchase of agricultural commodities from producers and the subsequent sale or disposition by first processors of the first processed articles; credits and financial charges with reference to agricultural products; purchasing arrangements with regard to agricultural commodities in their original form; plant capacity and/or its allocation.

Joint approval by the Secretary of Agriculture and the Administrator of codes of fair competition for those industries with respect to which both the Secretary of Agriculture and the Administrator might exercise functions and powers was prescribed by Executive Order 6764 of June 29, 1934. Codes for trades or industries having more than 50,000 employees and Section 3(d) codes were excepted from this joint approval, but the approval of amendments, exemptions, etc., was to be by the Secretary of Agriculture for code provisions he was authorized to administer and by the Administrator for those over which he had jurisdiction.

Executive Order 6999 of March 30, 1935, transferred five agricultural codes from the jurisdiction of the Secretary of Agriculture to that of the National Industrial Recovery Board with the same provisos as in Executive Order 6551 that prices, brokerage fees, marketing quotas, plant capacity, etc. were not to be fixed or controlled by the Board without the written approval of the Secretary of Agriculture.

The problem of cooperatives, though not exclusively agricultural, is generally associated with farm problems, hence the various Executive and Administrative Orders concerning cooperatives will be dealt with in this portion of this Study. By Executive Order 6355 of October 23, 1933, the President ordered that no provision in any code of fair competition, agreement or license, which had theretofore been or might thereafter be approved was to be so construed or applied as to prohibit the payment of patronage dividends in accordance with law to any member by any bona fide and legitimate cooperative organization, including any farmers' cooperative, if such patronage dividends were paid out of actual earnings of such cooperative organization and were not paid at the time when such member made a purchase from such cooperative organization.

Executive Order 6606-A of February 17, 1934, prescribed that no provision in any code was to be construed or applied so as to make it a vialation of any code to sell to or through any bona fide and legitimate cooperative organization or to prevent any such cooperative organization from being entitled to receive, and/or distribute to its members as patronage dividends the proceeds from any discount or commission. The Administrator was authorized to determine whether, in any doubtful case, an organization was or was not a bona fide and legitimate cooperative organization.

Following this order, Administrative Order X-35 was issued May 18, 1934, defining farmers' and consumers' cooperatives. A bona fide and legitimate cooperative organization must (1) be duly organized under the laws of any state, territory or the District of Columbia; (2) allow to

each member owning one fully paid share one vote and only one, except that a regional cooperative association may provide for voting based upon the volume of business done by its members; (3) operate on a cooperative basis for the mutual benefit of its members, all income, after providing for surplus and reserves, and payment of dividends on stock or membership capital of not to exceed 8% per annum, cumulative, to be distributed to members or shareholders at stated periods but not more frequently than semi-annually; (4) transact business with and for and on behalf of non-members for an amount not greater in value during any fiscal year than business transacted with and for and on behalf of members during the same period; (5) permit members and stockholders to have access to the records for purpose of determining salaries paid officers and employees, no salaries or commissions to be paid except for services rendered; (6) distribute patronage dividends equally to all members and/or stockholders, who have complied with membership requirements, in proportion to their purchases and/or sales, but not in the form of a refund at time of purchase, and not evidence such dividends by any agreement to distribute any specified dividend; and operate in accordance with applicable codes and Executive Orders 6355 and 6606-A.

Administrative Order X-98 was issued October 12, 1934, interpreting Executive Order 6606-A in so far as it applied to the allowance of brokerage commissions to cooperative organizations. This order prescribed that no provisions of any code theretofore or thereafter approved were to be so construed or applied as to make it a violation of any such code for any member of any industry to pay or allow a brokerage commission to any bona fide and legitimate cooperative organization performing services or engaged in functions for which other persons might properly be paid such a commission. In determining whether a cooperative organization was performing such services and functions no cognizance was to be taken of the fact that said cooperative organization would distribute its actual earnings, whether acquired in the form of brokerage commissions, or otherwise, to its members in the form of patronage dividends, notwithstanding also the fact that the members who in due course might receive a part of said brokerage commission as a patronage dividend might be the purchasers of the product or service in connection with which the said commission was realized.

CHAPTER XX

OIL REGULATION

Section 9

The President was authorized under Section 9 (a) to initiate before the Interstate Commerce Commission proceedings necessary to prescribe regulations to control the operations of oil pipe lines and to fix reasonable, compensatory rates for the transportation of petroleum and its products by pipe lines, and the Interstate Commerce Commission was to grant preference to the hearings and determination of such cases; under Section 9 (b), to institute proceedings to divorce from any holding company any pipe-line company controlled by such holding company which pipe-line company by unfair practices or by exorbitant rates in the transportation of petroleum or its products tended to create a monopoly; under Section 9 (c), to prohibit the transportation in interstate and foreign commerce of petroleum and its products produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any state law or valid regulation or order prescribed thereunder, by any board, commission, officer, or other duly authorized agency of a State. Any violation of any order of the President issued under these provisions was to be punishable by fine of not to exceed $1,000, or imprisonment for not to exceed six months, or both.

The Petroleum Code, negotiations for which were carried on by NRA, was approved August 19 and was modified in several particulars on September 13, 1933. Executive Order 6260-A of August 29, 1933, designated the Secretary of Interior as the Administrator and the Department of the Interior as the Federal agency provided by the code to exercise on the President's behalf all the functions and powers vested in him by the Act and the Code.

The Executive Orders issued under the authority of Section 9 had no direct bearing on NRA activities and are therefore not set out in this study.

CHAPTER XXI

RULES AND REGULATIONS

Section 10(a)

Section 10(a) of the Act authorized the President to prescribe such rules and regulations as were necessary to carry out the purposes of Title I of the National Industrial Recovery Act, and fees for licenses and for filing codes of fair competition and agreements, (*) and any violation of any such rule or regulation was to be punishable by fine of not to exceed $500 or imprisonment for not to exceed 6 months, or both.

The rules and regulations issued by the President under authority of this Section and by the Administrator under authority delegated to him by the President pertained to various subject matters; hence, the substantive contents of orders prescribing rules and regulations are set forth in the chapters of this study dealing with their subject matter.

(*) No fees for licenses and for filing codes of fair competition and agreements were ever prescribed or imposed.

CHAPTER XXII

AMENDMENTS

Section 10(b)

Section 10(b) of the Act provided that the President might "from time to time cancel or modify any order, approval, license, rule, or regulation issued under this title;" and each agreement or code approved was to contain an express provision to that effect.

As has been noted elsewhere in this study, certain Executive Orders can be considered as issued under the authority of Section 10(b) but they have been included in chapters dealing with their subject matter.

CHAPTER XXIII

INSIGNIA

There was no specific provision in the Act for the use of insignia but late in July, 1933, the Blue Eagle was devised as an emblem to signify compliance with the PRA. The first order relating to insignia was Executive Order 6337, issued October 14, 1933, which provided in part that no one was to display or use any emblem or insignia or any reproduction of any emblem or insignia of the National Recovery Administration contrary to any rules or regulations prescribed thereunder by the Administrator.

Administrative Order X-3, January 17, 1934, dealt with issuance of labels bearing NRA insignia and provided that where the code authority had the exclusive right to issue labels, it was not to refuse to do so on the ground of non-compliance unless it was prepared to certify to NRA a prima facie case of non-compliance with the code or the rules and regulations of the code authority. In the event of such refusal the code authority was to certify to NRA for decision by the National Compliance Director a complete file, showing the alleged non-compliance by the applicant not later than the day following such refusal. All other refusals were immediately to be certified showing the grounds therefor to NRA.

An unnumbered Office Memorandum of March 3, 1934, authorized code authorities to use the Blue Eagle on their stationery if the hours and wages of their employees were within the requirements of their code for like workers.

Administrative Order X-19 of April 12, 1934, created a Code Blue Eagle as property of the United States Government and provided that no person was to display, and on finding by NRA any person might be publicly deprived of the right to display, any Blue Eagle if he violated any provisions or the spirit and intent of any code, Presidential agreement, or regulation, duly prescribed and approved.

Administrative Order X-22 of April 19, 1934, reiterated the provisions of X-19 without change.

Administrative Order X-36, dated May 26, 1934, in part provided that no member of a trade or industry was to be deprived of the right to display the Blue Eagle because of non-payment of his equitable contribution to code administration expenses unless such member had been given notice of contribution due and had failed to pay amount due within thirty days of receipt of notice or had not filed a protest against the contribution within fifteen days of receipt of notice.

Administrative Order X-38 of May 28, 1934, provided, among other things, that the exclusive power to issue labels was vested in the code authority for each of the industries -- whose codes either theretofore or thereafter approved -- contained mandatory label provisions. All contracts for the purchase of labels by said code authorities were to be made after competitive bidding and no person or firm other than those specifically authorized were to manufacture or deal in labels bearing the

NRA emblem or insignia or any labels whose form, contents or insignia are so similar thereto as to be deceptive. The power to withdraw or withhold labels was reserved to the Administrator or to such agencies as he might designate, but code authorities might issue, subject to disapproval by the Administrator, such rules, regulations or forms, or modifications thereof, as were necessary in the administration of the label provisions of their respective codes and which were not inconsistent therewith or with any general regulations issued concerning labels. Upon application to the code authority labels were to be issued to all members of the industry subject to the code who had signed a statement certifying that they were complying with all provisions of their codes and of the Act and with all rules and regulations duly adopted pursuant thereto and that they would use labels issued to them only so long as they continued in compliance. No one was falsely to represent himself as complying, and whenever the code authority had cause to believe any one subject to the code was in violation thereof, it was to give due notice of the charge and an adequate opportunity to be heard. If after such hearing there was sufficient evidence of violation in the judgment of the code authority it might suspend the issuance of labels to such person or firm. The code authority was immediately to file a summary of the record of the hearing with such recommendations as it might deem proper with the NRA Compliance Division, which division had the power, upon the record or after further hearing, to withhold the issuance of labels, to withdraw the right to use labels or to take such other appropriate action as it might deem necessary.

The charge for labels by the respective code authorities was at all times to be subject to the supervision and orders of the Administrator and was not to be more than an amount necessary to cover the actual reasonable cost thereof, including actual printing, distribution and administration and supervision of the use thereof.

Office Memorandum 229 of June 9, 1934, provided in part that no limitation such as assent to the code was to be imposed upon the right of employers operating in conformity with the provisions of approved codes to receive and display Blue Eagle insignia and that thenceforth administrative approval would not be given to any code provision or any code authority by-law or regulation which sought to impose such a condition.

Executive Order 6723 of May 26, 1934, suspended all provisions in codes of such service trades or industries as thereafter were designated by the Administrator, except provisions governing child labor, maximum hours of work, minimum rates of pay and the mandatory provisions of Sections 7(a) and 10(b) of the Act, and provided that any member of such trade or industry was entitled to display NRA insignia so long as he was complying with the non-suspended provisions of such codes; provided, however, that after the adoption of a local code of fair trade practices by 85 per cent of the members of such trade in any given locality, any member displaying insignia was also to be complying with all terms of such code.

Executive Order 6756-A, dated June 28, 1934, which provided for local service trades agreements where 85 per cent of the members of any designated trade agreed to a local code of fair trade practices also provided that no member of a trade under a local agreement was entitled to display NRA insignia unless he was complying with all terms of such local code.

Administrative Order X-53 of June 28, 1934, provided in part that members of local service trades (the fair trade practice and code administration provisions of whose codes were suspended by Executive Order 6723, above referred to) displaying insignia were deemed to agree with the President to comply with hours of labor, rates of pay and other conditions of employment under said code, and after the approval of a local code of fair trade practices, then to comply with such fair practices.

Administrative Order X-135 of February 25, 1935, delegated to the respective code authorities whose codes made the use of labels mandatory the power to issue and administer the use of labels, subject to the provisions of the order and such other rules and regulations as may be promulgated by NRA. Each such code authority was, within thirty days after the effective date of the order, to submit to NRA such rules and regulations for the sale, issue and administration of the use of the label as might be necessary to carry out the provisions of the order. Such rules and regulations and any rules and regulations which might be submitted by way of amendment or addition thereto were to be deemed approved and were to become effective fourteen days after being submitted unless disapproved or amended by NRA within such period. Labels were to bear the Blue Eagle unless NRA otherwise provided and were to be so attached to the article that all matter printed or otherwise set forth thereon would be "visible upon reasonable inspection." Labels issued within an industry for use in one price class or on one type of product were to be uniform in design and were not to be used in any other price class or on any other type of article. Contents of labels were subject to the disapproval of NRA. Any transfer or use of labels unauthorized by rules and regulations of the code authority concerned was expressly prohibited. In addition to provisions similar to those of Administrative Order X-38, above referred to, prohibiting any member of an industry subject to a code containing mandatory label provisions from selling, dealing in or using any label bearing the Blue Eagle other than that issued by the Code authority for such industry, Order X-135 also provided that no persons or firms, whether members of the industry concerned or not, other than those specifically authorized by the respective code authorities, were to manufacture, cause to be manufactured, sell or deal in labels bearing the Blue Eagle which were designed for or were susceptible of use in any industry subject to a code containing a mandatory label provision; nor were any such persons or firms to manufacture, cause to be manufactured, sell or deal in any labels which were designed or had the tendency to simulate emblems or insignia issued under the authority of the respective code authorities.

Provisions similar to those of Administrative Order X-38 requiring all applicants for labels to sign statements of compliance and prohibiting any one from falsely representing himself as in compliance were also included.

Under Administrative Order X-135 no code authority was to suspend or resume the issue of labels or withdraw or restore the right to use labels unless the Compliance and Enforcement Director or the NRA Label Agency had issued an order approving and directing such action. Neither the code authority nor any officer nor any employee thereof was to impose, demand or accept any fine or make the payment of a fine a condition precedent to not recommending the denial or suspension of the issue of labels, nor were they to demand or accept the payment of the costs of investigation without the express approval of the NRA Label Agency. No charge for labels was to take effect until approved by NRA and such charge was to be subject to the supervision, modification and disapproval of the NRA. No code authority was to spend funds derived from the sale of labels except under the provisions of a budget submitted to and duly approved by NRA and in no case were such funds to be used to make contributions to trade association expenses or to the expenses of other organizations, except that such funds might be used to defray the expenses of a regularly constituted code authority or of such agencies of such code authority as it might deem advisable to employ in administering its code to the extent permitted by its budget and its code. Code authorities were to make such reports, concerning the sale, charges, issuance, distribution, suspension, withdrawal, investigation and administration of the use of labels bearing NRA insignia as the NRA might from time to time require.

Administrative Order X-138, issued March 30, 1935, provided that no one was to reproduce the Blue Eagle insignia -- whether for particular trades or industries operating under codes, issued under the PRA, or for sheltered workshops -- for his own use or for the use of another without written authorization from the NRA.

Reproduction authorizations theretofore issued by the NRA were continued in force but each such authorization and all reproduction authorizations thereafter issued might be cancelled at any time by the NRA upon a finding by it that the reproducer had violated any provision of any code, Presidential agreement, rule or regulation prescribed or approved under the Act.

Administrative Order X-144 of September 4, 1935, cancelled all authorizations to reproduce the Blue Eagle theretofore issued and provided that thereafter no one was to reproduce either for his own use or for the use of another any Blue Eagle emblem or insignia, issued, adopted or approved by the NRA or any label bearing any such Blue Eagle insignia or emblem.

SHELTERED WORKSHOPS' INSIGNIA

Administrative Order X-9 of March 3, 1934, provided, among other things, that a sheltered workshop which had signed and was complying with the pledge not to employ minors nor to engage in destructive price cutting or any other unfair method of competition would be entitled, while so complying, to use any appropriate insignia of the NRA. In the event any sheltered workshop violated its pledge, the full record in such case was to be reported to the NRA by the National Sheltered Workshop Committee (created by this order) for revocation of the right to use NRA insignia.

Administrative Order X-28 of May 11, 1934, provided, among other things, that the insignia used by sheltered workshops was to be the same Blue Eagle issued under the PRA with the addition of "S.W. Permit NO. ____", and that it was to appear on all products made by a sheltered workshop where similar goods privately manufactured were required by a code to bear insignia.

Administrative Order X-59, dated July 2, 1934, authorized the National Sheltered Workshop Committee to print and issue the NRA insignia designated by Order X-28 and to charge not more than an amount necessary to cover the cost of printing and the reasonable cost of administration and supervision of the use thereof. Prior to issuance of labels the Committee was to determine whether an institution was or was not a "sheltered workshop" on the basis of information furnished by the institution; insignia were then to be issued to duly designated sheltered workshops which had signed the pledge of cooperation and such workshop could continue displaying or using insignia so long as they were complying with conditions of the pledge. All sheltered workshops products were to bear labels and such products might be purchased, sold or exchanged by retailers who would not therefor be in violation of Section 2, Article IX of the Retail Code. * In all cases where the sheltered workshop did not have title to products, or where a person subject to a code did further manufacturing work upon products, no NRA insignia were to be placed on such products unless the person having title or the person by whom the products would be finished held a certificate from the code authority of the applicable code.

Administrative Order X-81 of September 1, 1934, vested the National Sheltered Workshop Committee with the exclusive power to issue to sheltered workshops labels bearing NRA insignia, provided the workshops had signed and were complying with their pledge of cooperation. Upon receipt of complaint that a workshop was in violation of any of the conditions of its pledge, or any order applying to it, and after an adequate opportunity to be heard, the Committee might suspend the issuance of labels to such workshop and was immediately to file with the NRA Compliance Division a summary of the record of hearing with such recommendations as it might deem proper. The Compliance Division was then to proceed and to have such powers and duties as were provided in the case of suspension of issuance of labels by a code authority.

Administrative Order X-111-1 of February 9, 1935, provided in part that the National Sheltered Workshop Committee was to make its report and recommendations concerning workshops alleged to be in violation of their pledge or any rule or regulation to the National Industrial Recovery Board, which Board might either overrule the Committee's orders

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* "No retailer shall purchase, sell, or exchange any merchandise manufactured under a Code of Fair Competition which requires such merchandise to bear an NRA label, unless said merchandise bears such label. Any retailer rightfully possessing the insignia of the NRA who has in stock or purchases similar merchandise which has been manufactured before the effective date of the Code of Fair Competition requiring such merchandise to bear an NRA label may attach thereto the NRA insignia."

as to suspension of issuance of labels or withdraw the right to use labels and exhibit insignia from the workshop in violation.

PRISON INDUSTRIES INSIGNIA

Administrative Order V-2, issued April 19, 1934, provided that all goods, wares, or merchandise made, in whole or in part, in the penal or correctional institutions of any state which was adhering to the Compact of Fair Competition for the Prison Industries of the United States of America, or made in such institutions of any political subdivision of such states, were to bear an NRA identification symbol whenever similar goods made by industries covered by codes were required to bear an NRA label. Each symbol was to bear a serial registration number assigned to each state, political subdivision or institution thereof by the Prison Labor Authority. The symbol was to be attached to products when sold, shipped or distributed by any penal or correctional institution subject to the provisions of the Prison Compact. NRA identification symbols were to be used only by institutions or states which had been granted permits to use such insignia, and permits were to be granted only when applications therefor were accompanied by certificates of compliance with the Prison Compact and were to continue in force only so long as the institutions to which permits were issued were complying with the Compact.

The NRA identification symbol authorized by Administrative Order V-2 was to be the NRA insignia issued under the PRA except that the word "member" was to be omitted and under the words "we do our part" were to be the following words "Ident. No. ". The charge made by the Prison Labor Authority for such symbol was at all times to be subject to the supervision and orders of the President and was not to be more than an amount necessary to cover its design, printing, fabrication, distribution and administration, and supervision of the use thereof.

Administrative Order V-3 of June 12, 1934, provided that the word "Compact" was to be printed above "Ident. No. " on all labels thereafter issued but the order in no way affected those issued prior to that date.

TERRITORIAL INSIGNIA

Administrative Order X-60 of July 2, 1934, authorized the Deputy Administrators for the Territories of Hawaii and Puerto Rico to have prepared and to issue labels to members of trades or industries in the territories corresponding in design to those issued by code authorities for corresponding mainland industries. Such deputies were to provide rules and regulations governing the manufacture, issuance and use of such labels, and were to impose charges corresponding to rules and regulations and charges for similar labels issued for corresponding industries on the mainland. Labels issued for Hawaii were to bear the letter "H" and for Puerto Rico, the letters "P.R." A certificate of compliance with the territorial agreement was required prior to issuance of labels.

CHAPTER XXIV

GOVERNMENT CONTRACTS

There was no provision in the Act concerning government contracts. Nevertheless, Executive Order 6246 -- the first order issued requiring contractors with the government to comply with all provisions of the applicable approved code or with the PRA -- began with the words "By virtue of the authority vested in (the President) by the Act of Congress entitled 'An Act to encourage national industrial recovery, etc.'" The second order relating to government contracts -- Executive Order 6646 -- was issued "By virtue of authority vested in me as President of the United States, etc." (*)

Executive Order 6246, dated August 10, 1933, provided that every contract entered into within the limits of the United States or by the United States or any of its agencies or instrumentalities for supplies mined, produced, or manufactured in the United States, was to provide and require that the contractor was to comply with all provisions of the applicable approved code for the trade or industry or subdivision thereof concerned or with the provisions of the PRA, without regard to whether the contractor was himself a party to such code or agreement. If the contractor failed to comply with the foregoing provision, the government could by written notice to the contractor terminate the contractor's right to proceed with the contract and purchase in the open market the undelivered portion of the supplies covered by the contract, and the contractor and his sureties were to be "liable to the government for any excess cost occasioned by the government thereby."

Executive Order 6646 of March 14, 1934, provided that all invitations to bidders thereafter promulgated by or in behalf of any executive department or independent establishment or other agency of the United States was to contain a provision to the effect that no bid was to be considered unless it included or was accompanied by a certificate duly executed by the bidder stating that the bidder was complying and would continue to comply with each approved code of fair competition to which he was subject, or if engaged in any trade or industry for which there was no approved code, then with the provisions of the PRA. No bid which did not comply with the foregoing requirements was to be considered or accepted. All contracts and purchase orders authorized by any agency of the United States were to contain a provision to the effect that the party or parties awarded any such contract or purchase order were to comply with the provisions of each applicable code or with the PRA and that the United States was to have the right to cancel any contract for failure to comply with such provision and to make open market purchases or have the work called for by the contract otherwise performed, at the expense of the contractor. No agency of the United States and no government contractor or supplier was thereafter to "accept or purchase for the performance of any contract or purchase order or enter into any subcontracts for any articles, materials, or supplies, in whole or in part produced or furnished by any person" who had not certified that he was complying and would continue to comply with each applicable code or the PRA.

(*) Apparently any authority in the Act for the issuance of these orders must rest on Section 10(a).

The foregoing provisions of Executive Order 6646 were likewise to "apply to all contracts and purchase orders authorized by any state, municipal corporation, local subdivision, person, or corporation in connection with projects carried out or to be carried out, wholly or in part, with funds loaned or granted by any agency of the United States," and all contracts and agreements for the making of any such loan or grant were to contain a provision requiring the state, municipal corporation, local subdivision, person or corporation receiving such loan or grant, to comply with the provisions of the order; provided that this paragraph was not to be construed as requiring the restriction of the use of materials to those produced within the United States nor to require price differentials in favor of such materials.

Any person falsely certifying as to compliance who submitted any such proposal, bid, contract, or subcontract, or accepted any purchase order, might be punished by a fine of not to exceed $500 or imprisonment not to exceed 6 months, or both, and in the event of false certification by any person the unfinished portion of any contract to which he was party might be completed at the expense of the person guilty of such false certification and his sureties, if any.

The Administrator was authorized to make exceptions in specific cases or otherwise under the order whenever such action was recommended to him by an agency of the United States and when in the judgment of the Administrator justice or public interest would best be served thereby.

Exceptions from Executive Order 6646

Administrative Order X-13 of April 6, 1934, excepted all government contracts and purchase orders to be performed in the Canal Zone from the provisions of Executive Order 6646.

Administrative Order X-15 of April 11, 1934, excepted "all purchases which must be made or contracts or leases which must be performed in foreign countries" from the operation of Executive Order 6646.

Administrative Order X-16 of April 11, 1934, excepted from the provisions of Executive Order 6646 any contracts, sub-contracts and/or purchase orders entered into to perform work covered by a defaulted contract when the defaulted contractor's sureties failed to complete such contract.

Administrative Order X-17 or April 11, 1934, excepted from the operation of Executive Order 6646 the following: (1) emergency purchases less than $50, and other emergency purchases, including those based on telegraphic bids, when in the purchasing officer's opinion it was not possible or practicable to obtain certificates of compliance; (2) all contracts, leases or purchases of any nature made with or/from any state government, or of any political subdivision thereof except contracts for projects carried out wholly or in part with government funds; (3) all leases involving rental of land for any purposes where no services were rendered to the government by the lessor; (4) all leases involving annual rental of not exceeding $500; and (5) purchase orders, contracts or leases made in American possessions or territories outside of continental limits of the United States where territorial codes or territorial modifications of basic codes had not been approved.

Administrative Order X-23, dated April 19, 1934, excepted all leases for Post Office quarters in such cases where field investigations and negotiations had been completed and where administrative routine had been effected as of that date from the provisions of Executive Order 6646.

Administrative Order X-25 of April 26, 1934, excepted an individual, trustee of a railway company, from the operation of Executive Order 6646 and from codes then or later approved in expending funds received from the Reconstruction Finance Corporation in accordance with his agreement with RFC or by order of the Interstate Commerce Commission. However, funds for any contracts entered into by the trustee, to insure the performance of which he obtained security from the contractor, were to be expended by the contractor subject to all applicable codes.

Administrative Order X-30 of May 15, 1934, excepted from the operation of Executive Order 6646 contracts negotiated by the Immigration and Naturalization Service, United States Department of Labor, covering (1) detention and maintenance of aliens in county jails and other public or charitable institutions; (2) water, gas, electricity, telephone and other services furnished by public utilities as a part of their regular service; (3) medical care of aliens by private physicians and (4) hospitalization of aliens.

Administrative Order X-31 of May 15, 1934, excepted from the provisions of Executive Order 6646 movements of government freight or personnel over steamship, air plane, bus or express lines where published tariff rates were in effect.

Administrative Order X-32 of May 16, 1934, rescinded Administrative Order X-16, set forth above, (*) concerning defaulted contracts.

Administrative Orders X-33 and X-34, both of May 16, 1934, excepted specific contracts from the provisions of Executive Order 6646.

Administrative Order X-40 of May 29, 1934, excepted from the operation of Executive Order 6646 cooperative agreements between the Department of Agriculture and individuals, corporations and/or other persons for the purpose of effecting or conducting experimental work in connection with agricultural products including the manufacturing or processing of agricultural products or derivatives, provided any monetary consideration paid to the cooperators did not exceed actual cost.

Administrative Order X-41 of May 29, 1934, excepted from the provisions of Executive Order 6646 the American University of Washington, D. C., as a lessor for quarters to house the Fertilizer Investigations of the Bureau of Chemistry and Soils.

Administrative Order X-42 of May 29, 1934, excepted from the operation of Executive Order 6646 all materials and articles of foreign origin purchased under Title III of the Act approved March 3, 1933,

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(*) See p. 62, above.

entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes."

Administrative Order X-43, dated June 9, 1934, excepted from the provisions of Executive Order 6646 all persons, concerns or industries not included in or covered by the National Industrial Recovery Act or who through Executive or Administrative Orders were exempted from the operation or application of approved codes or the PRA, provided that the bidder certified that he or it was not included or covered or was exempted as aforesaid.

Administrative Order X-44 of June 9, 1934, excepted from the operation of Executive Order 6646 contracts for star route service, regulation screen body motor vehicle service and mail messenger service, in all cases where proposals were invited on or before March 14, 1934.

Administrative Order X-45 of June 9, 1934, excepted leases for Post Office quarters in response to invitations antedating Executive Order 6646 from the provisions thereof.

Administrative Order X-46 of June 11, 1934, excepted from the operation of Executive Order 6646 all purchase orders, or contracts for supplies or equipment, or for the procurement of services, or open market purchases, when the aggregate amount did not exceed $100 in any instance; provided that contracting or purchasing officer certified that it was either impracticable or impossible to obtain a certificate of compliance.

Administrative Order X-47 of June 12, 1934, excepted a specific lease of quarters until September 1, 1934, from the provisions of Executive Order 6646.

Administrative Order X-49 of June 13, 1934, excepted leases or agreements with Yale University for space and services furnished the Department of Agriculture from the operation of Executive Order 6646.

Administrative Order X-52 of June 25, 1934, excepted from the provisions of Executive Order 6646 all activities of the Reconstruction Finance Corporation pursuant to its statutory powers as of June 8, 1934, except agreements executed after March 14, 1934, and agreements executed prior thereto which permit additional conditions to be imposed by RFC.

Administrative Orders X-55, X-56, X-57 and X-58, all of June 29, 1934, excepted specific contracts from the operation of Executive Order 6646.

Administrative Orders X-64, X-65, both of July 10, 1934, and X-66 of July 17, 1934, excepted specific contracts and leases from the provisions of Executive Order 6646.

Administrative Order X-67, of July 18, 1934, excepted from the operation of Executive Order 6646 all contracts for tug boat and tow

boat services with all Departments and agencies of the United States Government, pending the approval of the code for the industry and notice of such approval to the Procurement Division of the Treasury.

Administrative Order X-68, issued July 26, 1934, designated the Administrator for the Petroleum Industry to decide any dispute which arose between any agency of the United States and any bidder, contractor, supplier, or other person as to compliance with the Petroleum Code in connection with any proposal, bid, contract, sub-contract, or purchase order mentioned in Executive Order 6646.

Administrative Order X-70 of August 2, 1934, excepted a specific lease from the provisions of Executive Order 6646.

Administrative Order X-71 of August 3, 1934, excepted from the operation of Executive Order 6646 contracts for public utility services comprising telephone, electricity, gas, water and steam, whenever in the judgment of the procurement of contracting officer it was impracticable or impossible to obtain certificates of compliance, provided that the agency awarding any contract under this exception certified to the NRA via Procurement Division, Treasury Department, (1) services covered, (2) term of contract, and (3) names of parties thereto.

Administrative Orders X-74, X-75, X-76 and X-77, all of August 20, 1934, excepted specific contracts from the provisions of Executive Order 6646.

Administrative Order X-79 of August 24, 1934, excepted from the operation of Executive Order 6646 all contracts with all Departments and agencies of the United States Government for transporting freight and/or passengers on the Columbia River and its tributaries and on all inland waters west of the Cascade Mountains between the Columbia River and the northern boundary of the State of California pending the approval of the code for the Inland Water Carrier Trade in the West Division of the United States, Columbia River District.

Administrative Order X-83 of September 5, 1934, excepted a specific lease from the provisions of Executive Order 6646; Order X-86 of September 14, 1934, likewise excepted the extension of a lease until a Federal Building, then under construction, was available for occupancy.

Administrative Orders X-87 and X-88 of September 17 and September 21, 1934, respectively, excepted specific contracts from the operation of Executive Order 6646.

Administrative Orders X-90 of September 21, 1934, and X-91 and X-92 of September 22, 1934, excepted specific contracts from the provisions of Executive Order 6646.

Administrative Orders X-94 and X-95 of October 9, and X-96 of October 10, and X-97 of October 11, 1934, excepted specific contracts from the operation of Executive Order 6646.

Administrative Orders X-99, X-100 and X-101, all of October 17, 1934, excepted specific contracts from the provisions of Executive Order 6646.

Administrative Order X-102 of October 22, 1934, excepted from the operation of Executive Order 6646 a loan contract between RFC and the Metropolitan Water District of Southern California provided the District complied strictly with Chapter 1039, Statutes of 1933, Section 4, of the State of California, that the District requested all persons submitting bids to furnish certificates of compliance to each applicable approved code or to the PRA, and that the District complied with any and all approved codes which would apply to private persons or concerns for any operations or enterprises undertaken by it in competition with private industry.

Administrative Orders X-103, X-104 and X-105, all of October 23, 1934, excepted specific contracts and a lease from the provisions of Executive Order 6646.

Administrative Orders X-108, X-109, of November 1, and X-110 of November 7, 1934, excepted specific contracts from the operation of Executive Order 6646.

Administrative Orders X-112 of November 14, X-113 of November 15, X-114 and X-115 of November 16, and X-116 of November 27, 1934, excepted specific contracts from the provisions of Executive Order 6646.

Administrative Orders X-118 of December 5, X-120 of December 7 and X-121 of December 12, 1934, excepted specific contracts from the operation of Executive Order 6646.

Administrative Order X-123 of December 15, 1934, designated and authorized the Compliance and Enforcement Director as the agent of the National Industrial Recovery Board to decide all questions arising under Executive Order 6646 within the jurisdiction of said Board, except such as were within the jurisdiction of the Administrator for the Petroleum Industry by virtue of Administrative Order X-68 (*) and in its authority to issue necessary orders to effect such decisions.

Administrative Orders X-125, X-126, X-127 and X-128, all of December 18, 1934, excepted specific contracts and a lease from the provisions of Executive Order 6646.

Administrative Order X-129 of December 26, 1934, excepted a specific lessor from the requirement of securing miscellaneous articles or supplies only from persons certified as in compliance with applicable codes or PRA, provided that the exception did not apply to articles or supplies furnished directly to or on account of space covered by the lease.

(*) See p. 65, above.

Administrative Orders GC-71 (*) of January 9, 1935, excepted a specific lease; GC-72, January 15; GC-73, January 16; GC-74, January 22; GC-75, January 25; GC-76, January 28; GC-77, February 25; GC-78, March 26; GC-79 and GC-80, both of April 1, and GC-81, April 5, 1935, all excepted specific contracts from the operation of Executive Order 6646.

Administrative Order GC-82 of April 8, 1935, excepted the invitations to bid and contract in a specific instance from the provisions of Executive Order 6646.

Administrative Orders GC-83, April 10; GC-84, April 19; GC-85 and GC-86 and GC-87, all of May 15; and GC-88, May 22, 1935, excepted specific contracts from the operation of Executive Order 6646.

Administrative Order GC-89 of May 29, 1935, excepted from the operation of Executive Order 6646 all action ordered under paragraphs one to six inclusive, until further notice. Administrative Order GC-90 of June 3, 1935, modified GC-89 by excepting from the operation of Executive Order 6646 action ordered under paragraphs one to four inclusive, only. However, the intent of both GC-89 and GC-90 was virtually to rescind Executive Order 6646 by granting a general exemption to the operation thereof. This, of course, was a concomitant of the Supreme Court decision of May 27, 1935, in the Schechter case.

Administrative Order X-48 of June 12, 1934, provided that members of industry subject to codes, notwithstanding any code provisions to the contrary governing the making of quotations to governmental agencies, who bid or might bid on contracts to be awarded by governmental agencies, might: (a) Quote prices and terms of sale to governmental agencies as favorable as those permitted to be quoted to any commercial buyer for like quantities; (b) Quote definite prices or terms of sale not subject to adjustment resulting in increased cost during the life of the contract, for definite quantities and for definite periods not to exceed three months (unless a longer period was permitted by any code); (c) Quote definite prices or terms of sale, not subject to adjustment resulting in increased costs during the life of the contract, for indefinite quantities and for definite periods not to exceed six months (unless a longer period was permitted by any code); (d) Quote prices and terms to apply on contracts to become effective not more than sixty days from the date of the opening of bids; (e) Quote prices F.O.B. point of origin and/or F.O.B. destination.

The exemption granted by Administrative Order X-48 was limited to and operative only in connection with quotations made by members of industry to governmental agencies; nothing in the order was to operate to permit deviation from or abandonment of open price and cost protection provisions of codes, nor to relieve any such member at any time from the duty of complying with all other provisions of such codes.

(*) At the beginning of 1935 all Administrative Orders relating to government contracts were renumbered in a new series, GC-, and were no longer printed as general Administrative Orders.

Executive Order 6767 of June 29, 1934, provided in part that any person submitting a bid to a governmental agency might quote prices 15 per cent below filed prices under the applicable code, if, after the bids were opened, each bidder quoting a price or prices below his filed price or prices immediately filed a copy of his bid with the code authority or other appropriate agency. The order also authorized the Administrator upon complaint to reduce the 15 per cent tolerance but not below 5 per cent, if after due investigation he found that the 15 per cent tolerance permitted by the order was resulting in destructive price cutting in a particular trade or industry. All prior Executive Orders, including Executive Order 6646, set forth above (*) were modified to the extent that they were in conflict or inconsistent with Executive Order 6767.

(*) See p. 61 et seq.

CHAPTER XXV

BUDGETS AND ASSESSMENTS

There was no provision in the Act for the collection of expenses of code administration and in a number of the early codes no provisions concerning code administration expenses appeared, that problem being left to the code authorities. It was not until April 14, 1934, that Executive Order 6678 was issued requiring code authorities to submit for NRA approval budgets and bases of contribution. A clause suggested for inclusion in codes was set forth as follows:

> "1. It being found necessary, in order to support the administration of this Code and to maintain the standards of fair competition established by this Code and to effectuate the policy of the Act, the Code Authority is authorized, subject to the approval of the Administrator:
>
> "(a) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;
>
> "(b) To submit to the Administrator for this approval, subject to such notice and opportunity to be heard as he may deem necessary, (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Industry;
>
> "(c) After such budget and basis of contribution have been approved by the Administrator, to determine and secure equitable contribution as above set forth by all such members of the Industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.
>
> "2. Only members of the Industry complying with the Code and contributing to the expenses of its administration as provided in Section 1 hereof shall be entitled to participate in the selection of the members of the Code Authority or to receive the benefit of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration."

Administrative Order X-20, of the same date, prescribed supplementary regulations to the effect that a member of a trade or industry, the code for which contained a provision whereunder non-payment of an equitable contribution of the costs of code administration was to be deemed in violation of that code only if the Administrator had approved an itemized budget and an equitable basis of contribution. It was also clearly to be set forth that the member had received due notice of contribution due, which notice stated (1) the basis of contribution and the fact that it had been approved by the Administrator, (2) that continued non-payment after thirty days of the receipt of the notice was a violation of the code, and (3) the right of the member to file a protest

within 15 days on the ground that the basis of contribution as applied to such member was unjust or that the basis of contribution was not being followed by the code authority. If the member had not paid the amount due within 70 days of the receipt of the notice and if he had failed to file a protest within 15 days from the date of notice, he was open to the charge of violation. No member of any trade or industry, however, was to be deemed in violation of a code for failure to contribute to the expenses of administration of the code for any trade or industry other than that which embraced his principal line of business, subject to such exceptions as NRA might provide.

Office Memorandum 199, of May 5, 1934, further prescribed that either a public hearing or an opportunity to be heard was necessary in the case of every budget and basis of contribution, the circumstances in each case to determine. This memorandum further provided that "adequate steps should be taken by the code authority to safeguard the funds".

Administrative Order X-36 of May 26, 1934, which rescinded Order X-20, contained provisions similar to Administrative Order X-20, with the exception of Paragraph III:

> "Pending determinations by NRA with respect to specific Codes upon cause shown by a Code Authority or otherwise, every member of a trade or industry is hereby exempted from any obligation to contribute to the expenses of administration of any Code or Codes other than the Code for the trade or industry which embraces his principal line of business, provided that he shall submit such information and comply with such regulations with respect to such exemption as NRA may require or prescribe."

Further requirements concerning budgets and bases of contribution were prescribed by Office Memorandum 263 of July 17, 1934. At that time it was stated that if collection of funds was on a voluntary basis, no approval was necessary, but a budget and basis of contribution should be submitted to NRA. As to budgets, the definite period of time covered was to be stated; only items authorized by code provisions were to be included; pre-code expenses were not to be included in that portion of a budget to be met by compulsory contributions; and budgets for sub-code authorities were to receive separate approval unless approved as a part of budgets of national code authorities. Bases of contribution must conform to code provisions, must be reasonable in amount, equitable in operation, and properly related to the budget. The code authority was to make provision for the safeguarding of funds as follows:

> "(a) Designation of the person or persons who will receive and account for all funds.
> "(b) The giving of adequate security by him or them.
> "(c) The segregation of the Code Authority funds from all others, separate bank accounts being necessary.
> "(d) The keeping of accurate records of receipts and disbursements, of amounts levied, of amounts receivable, of amounts payable, and of commitments.
> "(e) The submission of periodic reports to NRA.
> "(f) An annual audit by independent outside competent agency".

Administrative Order X-78 of August 21, 1934, provided that no order or termination of the exemption under Paragraph III of Administrative Order X-36 (*) was to be construed as requiring any member of any trade or industry to contribute to the expenses of the administration of any code covering retail or wholesale distribution other than that code which covered his principal line of retail or wholesale distribution.

Administrative Order X-119 of December 5, 1934, reiterated in large part the provisions of Office Memorandum 263 concerning the protection of funds received by code authorities. Instead of annual audits, as required by the Office Memorandum, audits at the expiration of each budget period by competent, independent auditors, were required. In addition, the code authority was required, within 60 days of the budget closing date, to distribute to all members of the trade or industry who paid assessments or otherwise contributed funds, a report of its financial operations for the budget period, and to file a copy thereof with the NRA. Each code authority was required to furnish such information regarding its observance of the provisions of this order as the NRA might deem necessary, and any action of a code authority if found by NRA not to be in accord with this order was subject to its disapproval.

It was further required by Office Memorandum 323, issued December 20, 1934, that code authorities obtaining funds by means of voluntary contributions were to submit a report to the NRA as of December 31, 1934. The report was also to include copies of all assessment forms of notices sent to members of the industry.

The single assessment principle for establishments engaged in retail distribution was established by Administrative Order X-131, issued January 7, 1935. By that order each retail establishment was required to contribute only to its principal line code authority based upon its total retail business either (1) at the rate of assessment approved for the principal line code or (2) upon its principal line at the rate approved for the principal line code and upon each minor line at the rate approved for each minor line code.

Administrative Order X-136 of February 26, 1935, required all code authorities whether collecting contributions on a voluntary or mandatory basis to submit on or before March 31, 1935, to NRA for its approval an itemized budget of the estimated expenses of code administration for the current fiscal period and thereafter for each subsequent fiscal period. The budget was to set forth in detail the duties of all officials and employees, their salaries and all office and other expenses to be incurred by the national code authority and each regional code authority. No code authority was after March 31, 1935, to make any expenditure of funds not in accordance with a budget duly approved by the NRA. After fifteen days from the date of this order each code authority whose code did not authorize collection of assessments on a mandatory basis was to solicit contributions only on forms which clearly stated, in effect, "this solicitation is for a purely voluntary contribution, and while such contribution is deemed essential to carrying on

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(*) See p. 70, above.

code administration no legal prosecution will follow non-payment." All forms used for the solicitation of contributions by each code authority were to be submitted before use to the NRA and were subject to disapproval by NRA.

Office Memorandum 346 of March 18, 1935, provided that thereafter no budgets and bases of contribution were to be approved containing fixed minimum or maximum contributions, flat contributions uniform in amount for all members of an industry or trade, or sliding scale contributions providing for increased or decreased payments in accordance with specified brackets of the basis of contribution.

The problem of nuisance contributions were dealt with by Administrative Order X-139 of April 10, 1935, which provided that thereafter applications for approval of budgets and bases of contribution were to contain recommendations for reasonable classifications designed to eliminate nuisance contributions and for exemptions designed to avoid inequitable contributions on articles not marketed per se, and all orders of approval of budgets issued after April 30, 1935, were to fix such reasonable classifications and exemptions. Each code authority then operating under a budget and basis of contribution not containing provision for such reasonable classifications and exemptions was to submit recommendations therefor before May 15, 1935, and in the event any code authority failed so to do, the National Industrial Recovery Board after due consideration of all relevant facts would establish such classifications and exemptions.

Each separate establishment, whose principal line of business measured by dollar volume was retail distribution, was exempted by Administrative Order X-140 of April 11, 1935, from any obligation to contribute to the expense of administration of any minor line non-retail code governing a portion of such establishment's business, provided that that portion of business governed by such non-retail code did not require the full time services of two or more employees, and provided further that in no event was this order in any way to effect the obligations of any such establishment to affix labels and to pay for such labels at rates approved by the NRA pursuant to applicable code provisions and to Administrative Orders X-38 and X-135. (*)

Office Memorandum 351, of April 10, 1935, provided that a code authority could, without affording notice and opportunity to be heard, suspend the collection of assessments or reduce the rate of assessment below that authorized by its budget and basis of contribution provided that (1) such suspension or reduction was applied uniformly and equitably to all members of the industry and (2) such suspension or reduction was to be effective and deemed approved if NRA approved or failed to disapprove the same after 10 days' notice to NRA of the intention to initiate such suspension or reduction. A code authority would resume its original basis of assessment or adopt a basis of assessment not greater than its original one without affording notice and opportunity to be heard by complying with the same requirements as to suspension or reduction.

(*) See Chapter on Insignia, pp. 55, 57 above.

APPENDIX I. NATIONAL INDUSTRIAL RECOVERY ACT

(Public--No. 67--73d Congress)
(H.R. 5755)

AN ACT

To encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I--INDUSTRIAL RECOVERY

Declaration Of Policy

SECTION 1. A national emergency productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare, and undermines the standards of living of the American people, is hereby declared to exist. It is hereby declared to be the policy of Congress to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restriction of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

Administrative Agencies

SEC. 2. (a) To effectuate the policy of this title, the President is hereby authorized to establish such agencies, to accept and utilize such voluntary and uncompensated services, to appoint, without regard to the provisions of the civil service laws, such officers and employees, and to utilize such Federal officers and employees, and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers and employees so appointed.

(b) The President may delegate any of his functions and powers under this title to such officers, agents, and employees as he may designate or appoint, and may establish an industrial planning and research agency to aid in carrying out his functions under this title.

(c) This title shall cease to be in effect and any agencies established hereunder shall cease to exist at the expiration of two years after the date of enactment of this Act, or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by section 1 has ended.

Codes of Fair Competition

SEC. 3. (a) Upon the application to the President by one or more trade or industrial associations or groups, the President may approve a code or codes of fair competition for the trade or industry or subdivision thereof, represented by the applicant or applicants, if the President finds (1) that such associations or groups impose no inequitable restrictions on admission to membership therein and are truly representative of such trades or industries or subdivisions thereof, and (2) that such code or codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title: Provided, That such code or codes shall not permit monopolies or monopolistic practices: Provided further, That where such code or codes affect the services and welfare of persons engaged in other steps of the economic process, nothing in this section shall deprive such persons of the right to be heard prior to approval by the President of such code or codes. The President may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such code, as the President in his discretion deems necessary to effectuate the policy herein declared.

(b) After the President shall have approved any such code, the provisions of such code shall be the standards of fair competition for such trade or industry or subdivision thereof. Any violation of such standards in any transaction in or affecting interstate or foreign commerce shall be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act, as amended; but nothing in this title shall be construed to impair the powers of the Federal Trade Commission under such Act, as amended.

(c) The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of any code of fair competition approved under this title; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations.

(d) Upon his own motion, or if complaint is made to the President that abuses inimical to the public interest and contrary to the policy herein declared are prevalent in any trade or industry or subdivision thereof, and if no code of fair competition therefor has theretofore been approved by the President, the President, after such public notice and hearing as he shall specify, may prescribe and approve a code of fair competition for such trade or industry or subdivision thereof, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of this section.

(e) On his own motion, or if any labor organization, or any trade or industrial organization, association, or group, which has complied with the provisions of this title, shall make complaint to the President that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production of any competitive article or articles and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance

of any code or agreement under this title, the President may cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, and if, after such investigation and such public notice and hearing as he shall specify, the President shall find the existence of such facts, he shall, in order to effectuate the policy of this title, direct that the article or articles concerned shall be permitted entry into the United States only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any specified period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any code or agreement made under this title. In order to enforce any limitations imposed on the total quantity of imports, in any specified period or periods, of any article or articles under this subsection, the President may forbid the importation of such article or articles unless the importer shall have first obtained from the Secretary of the Treasury a license pursuant to such regulations as the President may prescribe. Upon information of any action by the President under this subsection the Secretary of the Treasury shall, through the proper officers, permit entry of the article or articles specified only upon such terms and conditions and subject to such fees, to such limitations in the quantity which may be imported, and to such requirements of license, as the President shall have directed. The decision of the President as to facts shall be conclusive. Any condition or limitation of entry under this subsection shall continue in effect until the President shall find and inform the Secretary of the Treasury that the conditions which led to the imposition of such condition or limitation upon entry no longer exists.

(f) When a code of fair competition has been approved or prescribed by the President under this title, any violation of any provision thereof in any transaction in or affecting interstate or foreign commerce shall be a misdemeanor and upon conviction thereof an offender shall be fined not more than $500 for each offense, and each day such violation continues shall be deemed a separate offense.

Agreements and Licenses

SEC. 4. (a) The President is authorized to enter into agreements with, and to approve voluntary agreements between and among, persons engaged in a trade or industry, labor organizations, and trade or industrial organizations, associations, or groups, relating to any trade or industry, if in his judgment such agreements will aid in effectuating the policy of this title with respect to transactions in or affecting interstate or foreign commerce, and will be consistent with the requirements of clause (2) of subsection (a) of section 3 for a code of fair competition.

(b) Whenever the President shall find that destructive wage or price cutting or other activities contrary to the policy of this title are being practiced in any trade or industry or any subdivision thereof, and, after such public notice and hearing as he shall specify, shall find it essential to license business enterprises in order to make effective a code of fair competition or an agreement under this title or otherwise to effectuate the policy of this title, and shall publicly so announce, no person shall, after a date fixed in such announcement, engage in or carry on any business, in or affecting interstate or foreign commerce, specified in such announcement, unless he shall have first obtained a license issued pursuant to such regulations as the President shall pre-

scribe. The President may suspend or revoke any such license, after due notice and opportunity for hearing, for violations of the terms or conditions thereof. Any order of the President suspending or revoking any such license shall be final if in accordance with law. Any person who, without such a license or in violation of any condition thereof, carries on any such business for which a license is so required, shall, upon conviction thereof, be fined not more than $500, or imprisoned not more than six months, or both, and each day such violation continues shall be deemed a separate offense. Notwithstanding the provisions of section 2 (c), this subsection shall cease to be in effect at the expiration of one year after the date of enactment of this Act or sooner if the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by section 1 has ended.

SEC. 5. While this title is in effect (or in the case of a license, while section 4 (a) is in effect) and for sixty days thereafter, any code, agreement, or license approved, prescribed, or issued and in effect under this title, and any action complying with the provisions thereof taken during such period, shall be exempt from the provisions of the antitrust laws of the United States.

Nothing in this Act, and no regulation thereunder, shall prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof; nor shall anything in this Act, or regulation thereunder, prevent anyone from marketing or trading the produce of his farm.

Limitations Upon Application Of Title

SEC. 6. (a) No trade or industrial association or group shall be eligible to receive the benefit of the provisions of this title until it files with the President a statement containing such information relating to the activities of the association or group as the President shall by regulation prescribe.

(b) The President is authorized to prescribe rules and regulations designed to insure that any organization availing itself of the benefits of this title shall be truly representative of the trade or industry or subdivision thereof represented by such organization. Any organization violating any such rule or regulation shall cease to be entitled to the benefits of this title.

(c) Upon the request of the President, the Federal Trade Commission shall make such investigations as may be necessary to enable the President to carry out the provisions of this title, and for such purposes the Commission shall have all the powers vested in it with respect of investigations under the Federal Trade Commission Act, as amended.

SEC. 7. (a) Every code of fair competition, agreement, and license approved, prescribed, or issued under this title shall contain the following conditions: (1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the disignation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3)

that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

(b) The President shall, so far as practicable, afford every opportunity to employers and employees in any trade or industry or subdivision thereof with respect to which the conditions referred to in clauses (1) and (2) of subsection (a) prevail, to establish by mutual agreement, the standards as to the maximum hours of labor, minimum rates of pay, and such other conditions of employment as may be necessary in such trade or industry or subdivision thereof to effectuate the policy of this title; and the standards established in such agreements, when approved by the President, shall have the same effect as a code of fair competition, approved by the President under subsection (a) of section 3.

(c) Where no such mutual agreement has been approved by the President he may investigate the labor practices, policies, wages, hours of labor, and conditions of employment in such trade or industry or subdivision thereof; and upon the basis of such investigations, and after such hearings as the President finds advisable, he is authorized to prescribe a limited code of fair competition fixing such maximum hours of labor, minimum rates of pay, and other conditions of employment in the trade or industry or subdivision thereof investigated as he finds to be necessary to effectuate the policy of this title, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of section 3. The President may differentiate according to experience and skill of the employees affected and according to the locality of employment; but no attempt shall be made to introduce any classification according to the nature of the work involved which might tend to set a maximum as well as a minimum wage.

(d) As used in this title, the term "person" includes any individual, partnership, association, trust, or corporation; and the terms "interstate and foreign commerce" and "interstate or foreign commerce" include, except where otherwise indicated, trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States.

Application Of Agricultural Adjustment Act

SEC. 8. (a) This title shall not be construed to repeal or modify any of the provisions of title I of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes", approved May 12, 1933; and such title I of said Act approved May 12, 1933, may for all purposes be hereafter referred to as the "Agricultural Adjustment Act."

(b) The President may, in his discretion, in order to avoid conflicts in the administration of the Agricultural Adjustment Act and this title, delegate any of his functions and powers under this title with respect to trades, industries, or subdivisions thereof which are engaged in the handling of any agricultural commodity or product thereof, or of any

competing commodity or product thereof, to the Secretary of Agriculture.

Oil Regulation

SEC. 9. (a) The President is further authorized to initiate before the Interstate Commerce Commission proceedings necessary to prescribe regulations to control the operations of oil pipe lines and to fix reasonable, compensatory rates for the transportation of petroleum and its products by pipe lines, and the Interstate Commerce Commission shall grant preference to the hearings and determination of such cases.

(b) The President is authorized to institute proceedings to divorce from any holding company any pipe-line company controlled by such holding company which pipe-line company by unfair practices or by exorbitant rates in the transportation of petroleum or its products tends to create a monopoly.

(c) The President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder, by any board, commission, officer, or other duly authorized agency of a State. Any violation of any order of the President issued under the provisions of this subsection shall be punishable by fine of not to exceed $1,000, or imprisonment for not to exceed six months, or both.

Rules and Regulations

SEC. 10. (a) The President is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this title, and fees for licenses and for filing codes of fair competition and agreements, and any violation of any such rule or regulation shall be punishable by fine of not to exceed $500, or imprisonment for not to exceed six months, or both.

(b) The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under this title; and each agreement, code of fair competition, or license approved, prescribed, or issued under this title shall contain an express provision to that effect.

APPENDIX II - BASIC CODE

ADMINISTRATIVE ORDER NO. X-61

PLAN FOR COMPLETION OF CODE MAKING

By virtue of authority vested in me as Administrator for Industrial Recovery under Title I of the National Industrial Recovery Act, and in order to provide a simple means of giving a code forthwith to those industries remaining uncodified who desire a code and in order thereby to free NRA for administration of approved codes, it is hereby ordered that:

1. This Plan is available to any industry not yet codified under said Act (with the exception of industries, including local service trades, for specific cause designated by the Administrator for different treatment). Any such industry may apply to the Administrator for codification by application of the Basic Code (Exhibit "A", annexed) as the code for such industry. The hour and wage provisions to be included in said Basic Code, as to any applicant industry, shall be those already approved for the proper kindred industry, as determined by the Administrator, after due consideration of representations of the applicant industry and other relevant data. An uncodified industry, instead of applying for the Basic Code, may apply for consolidation and complete coverage by the existing code for the proper kindred industry, subject to stay as to applicant industry of provisions then inconsistent with policy.

2. If any such application is made by a truly representative body of the industry and if there be no objection by any party in material interest after ten (10) days published notice to all concerned, such Code shall, without further hearing, reference to Advisory Boards or other administrative action, become effective ten (10) days after its approval by the Administrator, in industries employing less than fifty thousand (50,000) persons, or by the President in all other industries.

3. All uncodified industries which desire codification (excepting those specially designated as above) are requested so to apply for such Basic Code or for consolidation with codes for kindred industries. If after the approval of such application for any industry, it desires additional fair trade practice provisions or modifications as to such industry of the Basic Code, or the code with which consolidated, such industry may apply therefor at any time and will be accorded a prompt hearing and determination with respect thereto. Any industry which desires to consolidate under the code of a kindred industry may do so on approval of the Administrator even after becoming subject to the Basic Code.

4. It is not intended by this Plan to force all remaining uncodified industries under codes, but as to any such industry not yet codified which does not apply for such Basic Code, or for consolidation as above, within thirty (30) days after the date hereof and in which the Administrator shall determine that wages, hours, and conditions of labor constitute an abuse inimical to the public interest and contrary to the

policy of said Act, the Administrator will within forty (40) days after the date hereof provide for a hearing in accordance with Section 3 (d) of said Act to determine whether a code covering hours of labor, rates of pay, and other working conditions shall not be prescribed thereunder.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Washington, D. C.
July 10, 1934

BASIC CODE

July 10th, 1934.

-oOo-

ARTICLE I.

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a basic Code of Fair Competition which shall govern every industry applying therefor in accordance with Administrative Order No. X-61, dated July 10, 1934.

ARTICLE II

Section 1. Hours.

No employee shall be permitted to work in excess of _____ hours in any one week, except that for _____ weeks in any one calendar year, any employee may be permitted to work not more than _____ hours per week. All hours in excess of _____ per day or _____ per week shall be paid for at not less than one and one-half (1-1/2) times the employee's regular rate.

Section 2. Exceptions.

The provisions of Section 1 shall not apply to employees engaged in emergency maintenance or emergency repair work involving breakdown or the protection of life or property, nor to persons employed in a managerial or executive capacity who earn regularly Thirty-five Dollars ($35.00) per week or more, nor to any other class of employees which the Administrator shall find upon application of true representatives of the trade or industry should be subjected to an exemption or modification in accordance with N.R.A. policy; provided, however, that employees engaged in such

emergency maintenance and emergency repair work shall be paid at one and one-half (1-1/2) times their normal rate for all hours worked in excess of forty (40) hours per week.

Section 3. Minimum Wages.

No employee shall be paid in any pay period less than at the rate of _____ per week for _____ hours of labor, except in _____ in which region no employee shall be paid in any pay period less than at the rate of _____ per week for _____ hours of labor.

Section 4. Wages in General.

All wages shall be adjusted so as to maintain a differential at least as great in amount as that existing on June 16, 1933, between wages for such employment and the minima. In no case shall there be any reduction in hourly rates; nor in weekly earnings for any reduction in hours of less than thirty per cent.

ARTICLE III.

Section 1. Child Labor.

No person under sixteen years of age shall be employed in the industry in any capacity. No person under eighteen years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator for approval before October 1, 1934, a list of such operations or occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a valid certificate or permit duly signed by the authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age.

Section 2. Apprentices.

The hours and wages of regularly indentured apprentices in skilled trades or occupations of the industry may depart from the standards hereinabove prescribed; provided that the terms of employment and the course on instruction of such apprentices shall conform to standards uniform throughout the trade or industry and approved by the Administrator.

Section 3. Handicapped Persons.

A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this Code, if the employer obtains from the State authority designated by the United States Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each employer shall file monthly with the Code Authority a list of all such

persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

Section 4. Safety and Health.

Every employer shall make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within six months after the effective date of this Code. The standards approved shall thereafter be a part of this Code and enforceable as such.

Section 5. Required Labor Clauses.

The provisions of Section 7 (a) of said Act are hereby incorporated herein by this reference and shall be complied with.

ARTICLE IV.

Administration.

This Code shall be administered by the General NRA Code Authority which shall be selected pursuant to, have the powers specified in and function in accordance with Administrative Order X-62, dated July 10, 1934; provided, however, that, on approval by the Administrator, any industry so desiring may elect its own Code Authority to have powers and to function in the manner prescribed for the General NRA Code Authority and under such rules and regulations as the Administrator may prescribe.

ARTICLE V.

Trade Practices.

(a) It shall be an unfair method of competition for any member of any trade or industry subject hereto to violate any rule of fair trade practice for such trade or industry even if not herein contained when approved by the Administrator, or, in the case of trade practice provisions for trades or industries under the jurisdiction of the Secretary of Agriculture when approved by such Secretary, on application concurred in by seventy-five (75) per cent of the members of such trade or industry.

(b) Prices, rebates, discounts, commissions and conditions of sale shall be filed as prescribed in Administrative Order No. X-62, dated July 10, 1934, and it shall be an unfair method of competition to violate or fail to comply with the terms of that Order.

ARTICLE VI.

Section 10 (b) of said Act is hereby incorporated herein by reference and this Code is expressly made subject thereto.

APPENDIX III

ADMINISTRATIVE ORDER NO. X-62

SUPPLEMENTING ADMINISTRATIVE ORDER NO. X-61, DATED JULY 10,1934, AND THE BASIC CODE ANNEXED THERETO.

:**********

By virtue of the authority vested in me as Administrator for Industrial Recovery under Title I of the National Industrial Recovery Act and to supplement Administrative Order No. X-61, dated July 10, 1934, and the Basic Code annexed thereto, it is hereby ordered that:

A. General NRA Code Authority

1. The General NRA Code Authority, provided for in Article IV of said Basic Code, shall be appointed by the Administrator and shall serve without expense to the Industries subject to such Code.

2. Such Code Authority shall have the following powers and duties:

(a) To insure the execution of the provisions of the Code and to provide for the compliance of the trade/industry with the provisions of the Act.

(b) To adopt by-laws and rules and regulations for its procedure.

(c) To obtain from members of the trade/industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, members of the trade/industry subject to said Basic Code shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3(a) of the Act to such Federal and State agencies as he may designate; provided that nothing in the Code shall relieve any member of the trade/industry of any existing obligations to furnish reports to any Government agency. No individual report shall be disclosed to any other member of the trade/industry or any other party except to such other Government agencies as may be directed by the Administrator.

(d) The General NRA Code Authority shall submit to the Administrator within 90 days after the approval of this Basic Code a list of industries covered by the Basic Code, in which work on any part of the product is performed in the home and/or work is contracted out. The General NRA Code Authority may also submit a list of special problems affecting particular industries operating under the Basic

Code, and recommendations pertaining thereto.

(e) To made recommendations to the Administrator for the coordination of the administration of the Code and such other codes, if any, as may be related to or affect members of the trade/industry.

(f) To recommend to the Administrator any action or measure deemed advisable, including further fair trade practice provisions to govern members of the trade/industry in their relations with each other or with other trades/industries; measures for industrial planning, and stabilization of employment.

B. Open Price Filing.

As provided for in Section (b) of Article V of said Basic Code, prices, rebates, discounts, commissions, and conditions of sale shall be filed in accordance with the following provisions:

1. Each member of the trade/industry shall file with a confidential and disinterested agent of the code authority or, if none, then with such an agent designated by the Administrator, identified lists of all of his prices, discounts, rebates, allowances, and all other terms or conditions of sale, hereinafter in this article referred to as "price terms", which lists shall completely and accurately conform to and represent the individual pricing practices of said member. Such lists shall contain the price terms for all such standard products of the industry as are sold or offered for sale by said member and for such non-standard products of said member as shall be designated by the code authority. Said price terms shall in the first instance be filed within 30 days after the date of approval of this provision. Price terms and revised price terms shall become effective immediately upon receipt thereof by said agent. Immediately upon receipt thereof, said agent shall by telegraph or other equally prompt means notify said member of the time of such receipt. Such lists and revisions, together with the effective time thereof, shall upon receipt be immediately and simultaneously distributed to all members of the industry and to all of their customers who have applied therefor and have offered to defray the cost actually incurred by the code authority in the preparation and distribution thereof and be available for inspection by any of their customers at the office of such agent. Said lists or revisions or any part thereof shall not be made available to any person until released to all members of the industry and their customers, as aforesaid; provided, that prices filed in the first instance shall not be released until the expiration of the aforesaid 30 day period after the approval of this code. The code authority shall maintain a permanent file of all price terms filed as herein provided, and shall not destroy any part of such records except upon written consent of the Administrator. Upon request

the code authority shall furnish to the administrator or any duly designated agent of the Administrator copies of any such lists or revisions of price terms.

2. When any member of the trade/industry has filed any revision, such member shall not file a higher price within forty-eight (48) hours.

3. No member of the trade/industry shall sell or offer to sell any product, services of the trade/industry, for which price terms have been filed pursuant to the provisions of this article, except in accordance with such price terms.

4. No member of the industry shall enter into any agreement, understanding, combination or conspiracy to fix or maintain price terms, nor cause or attempt to cause any member of the industry to change his price terms by the use of intimidation, coercion, or any other influence inconsistent with the maintenance of the free and open market which it is the purpose of this Article to create.

C. Costs and Price Cutting.

1. The standards of fair competition for the trade/industry with reference to pricing practices are declared to be as follows:

(a) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the trade/industry or of any other trade/industry or the customers of either may at any time complain to the Code Authority that any filed price constitutes unfair competition as destructive price cutting, imperiling small enterprise or tending toward monopoly or the impairment of code wages and working conditions. The Code Authority shall within 5 days afford an opportunity to the member filing the price to answer such complaint and shall within 14 days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of NRA which shall render a report and recommendation thereon to the Administrator.

(b) When no declared emergency exists as to any given product, there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

(c) When an emergency exists as to any given product, sale below the stated minimum price of such product, in violation of Section 2 hereof, is forbidden.

2. Emergency Provisions.

(a) If the Administrator, after investigation shall at any time find both (1) that an emergency has arisen within the trade/industry adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the trade/industry for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Code Authority may cause an impartial agency to investigate costs and to recommend to the Administrator a determination of the stated minimum price of the product affected by the emergency and thereupon the Administrator may proceed to determine such stated minimum price.

(b) When the Administrator shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, he shall publish such price. Thereafter, during such stated period; no member of the trade/industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Code Authority may recommend review or reconsideration or the Administrator may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Washington, D. C.

July 10,1934.

9675

APPENDIX IV

ADMINISTRATIVE ORDER NO. X-63.

PRESCRIBING RULES AND REGULATIONS TO SUPPLEMENT ADMINISTRATIVE ORDER NO. X-61, DATED JULY 10, 1934, AND THE BASIC CODE ANNEXED THERETO.

By virtue of authority vested in me as Administrator for Industrial Recovery under Title I of the National Industrial Recovery Act the following rules and regulations are hereby prescribed to supplement the above-mentioned Administrative Order and Code:

1. The minimum rates of pay provided for in Article II of said Basic Code shall apply, irrespective of whether an employee is actually compensated on a time rate, piece-work, or other basis.

2. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

3. No employer shall permit any employee to work for any time which, when totaled with that already performed for another employer or employers exceeds the maximum permitted herein.

4. No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge so as to defeat the purposes or provisions of the Act or of said Basic Code.

5. No employer shall dismiss or demote any employee for making a complaint or giving evidence with respect to an alleged violation of the provisions of any Code of Fair Competition.

6. Code Authorities selected by industry in accordance with Article IV of said Basic Code shall function at the expense of the industry in accordance with such further rules and regulations as the Administrator may prescribe.

7. No provision hereof, of said Administrative Order No. X-61 or of said Basic Code, shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, safety, health and sanitary conditions, insurance, fire protection or general working conditions, than are imposed thereby.

8. No provision hereof, of said Administrative Order No. X-61, or of said Basic Code shall be so applied as to permit monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

Washington, D.C.
July 10, 1934
9675

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

APPENDIX V

National Recovery Administration

Bulletin No. 7

MANUAL

For The

ADJUSTMENT OF COMPLAINTS

By

State Directors and
Code Authorities

AMENDMENTS TO NRA BULLETIN NO. 7

Administrative Order No. X-14

AMENDMENT ONE

(To be inserted at Page 18, Bulletin No. 7)

Part Two, Section IV, "Handling of Complaints by the State Director" is amended by adding at the end thereof the following:

"F. REFERENCE TO THE DISTRICT ATTORNEY BY THE STATE DIRECTOR

If at any time the State Director is convinced that the facts relative to a complaint conclusively establish a violation which the respondent shows no disposition to correct or adjust, the State Director may immediately refer the entire record in the case to the appropriate District Attorney of the United States for action instead of the National Compliance Director as provided in Paragraph D, 5 (p. 17 above). Whenever a case is so referred, under this paragraph, the State Director will inform the respondent of such reference and will immediately transmit a complete transcript, in triplicate, of the entire record of the case to the Control Section of the Compliance Division of NRA."

AMENDMENT TWO

(To be inserted at Page 32, Bulletin No. 7)

Part Three, Section IV, Paragraph C, "Handling of Accepted Complaints by an Industrial Adjustment Agency" is amended by adding at the end thereof the following:

"12. REFERENCE TO THE DISTRICT ATTORNEY BY ADJUSTMENT AGENCY AUTHORIZED TO HANDLE THE COMPLAINT IN THE FIRST INSTANCE

(a) If at any time the highest Adjustment Agency finds that the facts relative to a complaint conclusively establish a violation which the respondent shows no disposition to correct or adjust, the case may be immediately referred to the appropriate District Attorney of the United States through the State Director for the State in which the appropriate District Court of the United States is located. Whenever a case is so referred under this paragraph the highest Adjustment Agency will inform the respondent of such reference and the State Director will immediately transmit a complete transcript in triplicate of the entire record of the case to the Control Section of the Compliance Division of NRA.

" (b) Where a Code Authority has divisional, regional or local Industrial Adjustment Agencies authorized by NRA, the Code Authority may provide that such divisional, regional or local Industrial Adjustment Agency shall have power to refer cases to the appropriate District Attorney, through the State Director, in accordance with the procedure outlined in the foregoing paragraph."

AMENDMENT THREE

(To be inserted at Page 16, Bulletin No. 7)

Part Two, Section IV, Paragraph C, 3, "State Adjustment Board--Functions" is amended by adding to the end thereof the following:

"(e) In any case where the State Director has decided to refer a case directly to the appropriate District Attorney of the United States (as provided in Part Two, Section IV, Paragraph F, page 18), or where he has been requested to so refer a case by an Industrial Adjustment Agency (as provided in Part Three, Section IV, Paragraph C, 12, page 32), he may submit the case to the Adjustment Board for its advice and recommendations."

Hugh S. Johnson,
Administrator.

April 6, 1934.

ADMINISTRATIVE ORDER NO. X-29

AMENDMENT TO NRA BULLETIN NO. 7

AMENDMENT FOUR

The practice of authorizing Code Authorities and Industrial Adjustment Agencies to handle complaints "on reference" is hereby discontinued; no further Code Authorities or Industrial Adjustment Agencies will be authorized to handle complaints "on reference" and beginning June 15, 1934, no further complaints will be referred "on reference" to Code Authorities or Industrial Adjustment Agencies now so authorized.

The use of the term "authorized in the first instance" is discontinued and the term "officially authorized" substituted.

Code Authorities and Industrial Adjustment Agencies heretofore authorized to handle a particular type of complaint "in the first instance" are hereby "officially authorized" to handle such complaints. Code Authorities and Industrial Adjustment Agencies not so authorized should make application to be "officially authorized." The application should be made in accordance with NRA Bulletin No. 7, Part Three, III.

A Code Authority or Industrial Adjustment Agency which has not been "officially authorized" to handle a particular type of complaint shall not represent that it is authorized to receive such complaints, and complaints filed with State NRA Compliance Directors or other Agencies will not be forwarded to it, provided, however, that all Code Authorities are permitted to handle complaints filed with them voluntarily by the complainant.

If a complaint of a character which a Code Authority or Industrial Adjustment Agency is "officially authorized" to handle is filed by a

complainant with NRA, either with a State Director or in Washington, the complaint will be forwarded to the officially authorized Code Authority or Industrial Adjustment Agency, unless the complainant indicates that he purposely filed the complaint with NRA or that fact appears from the substance of the complaint.

So much of Bulletin No. 7 as is inconsistent with this Amendment is superseded. Administrative Order X-12, dated March 30, 1934, remains in full force.

Hugh S. Johnson,
Administrator.

May 12, 1934.

NATIONAL RECOVERY ADMINISTRATION

BULLETIN NO. 7

JANUARY 22, 1934

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PART ONE—INTRODUCTION

It is the purpose of this Manual to indicate the method by which complaints of violations of NRA Codes of Fair Competition will be handled by NRA and by Code Authorities. This Introduction sets out the fundamental relationship between Industry and NRA in Code Administration with particular emphasis on that relationship as it bears on the problems of adjusting complaints of violations of NRA Codes.

I. CODE ADMINISTRATION

A. INDUSTRY ADMINISTERS CODES SUBJECT TO THE ULTIMATE RESPONSIBILITY OF NRA

After a Code has been approved, there remains the problem of Code administration. The responsibility for insuring that Codes are administered and that the public is protected lies with the Administrator; but the aim of NRA is to give to Industry, through its Code Authorities, the widest possible range of self-government, subject to the ultimate responsibility of the Administrator. Consequently, practically all Codes provide that the Code Authority thereof is to administer the Code.

B. TWO ASPECTS TO CODE ADMINISTRATION—(1) PLANNING AND PROGRESS; (2) COMPLIANCE

There are two aspects to Code Administration: (1) Planning and Progress and (2) Compliance. The first aspect includes such functions as economic planning and research for the Industry, reports and recommendations on conditions in the Industry, collection of statistical data, preparation of cost accounting methods, etc. The second aspect includes: (a) The instruction and education of those subject to the Code as to their responsibilities thereunder so as to anticipate and avoid complaints of noncompliance. (b) The adjustment of complaints of noncompliance by education, findings of facts, and the pressure of opinion within the Industry. (c) The adjustment of complaints by conciliation, mediation and arbitration. (d) The rendition of reports to the enforcement agencies of government in those cases where all other means have failed. Such reports should be based upon adequate findings of fact.

C. FUNDAMENTAL THAT INDUSTRY SHOULD EFFECT BOTH

It is fundamental, within both the letter and intent of NIRA (the National Industrial Recovery Act), that as much as possible of both aspects of Code administration be effected by Industry itself. This should be done through the Code Authority (specifically provided for in the Code).

D. EQUALLY FUNDAMENTAL THAT NRA WILL SUPERVISE AND ACT WHERE INDUSTRY DOES NOT

It is equally fundamental, within both the letter and intent of NIRA, that the ultimate responsibility for efficient Code administration lies with NRA, which will supervise Code administration by Code Authorities. To carry out this responsibility most Codes provide for one or more Administration Members to sit on the Code Authority without vote, but with a veto on all acts of the Code Authority in Code administration (subject to review by NRA). In addition, NRA will directly administer the Code itself wherever an Industry is unable to administer it or fails to administer it, or where there are certain functions of Code administration which by their nature government should perform directly.

E. INDUSTRY ORGANIZED THROUGH TRADE ASSOCIATIONS FOR "PLANNING AND PROGRESS"

In an Industry sufficiently organized to have agreed upon a Code of Fair Competition, there usually will be no need for Government administration in the "planning and progress" field. These functions Industry is already performing for itself through its trade associations. A trade association may be a Code Authority, or may be used by a Code Authority, as provided in the Code. It is the policy of NRA to build up and strengthen trade associations throughout all Commerce and Industry so that they may perform all Code administrative functions. A Trade Association Division has been established in NRA to carry out this policy and to advise and assist Industry in the performance of these functions.

II. CODE COMPLIANCE

A. INDUSTRY IN GENERAL IS NOT ALREADY ORGANIZED FOR COMPLIANCE

The field of administration for compliance is an entirely new one. No Industries were heretofore organized with this function in view. Until an Industry is organized to perform this function NRA will have to perform it, but it is the policy to pass this function on to all Industries as rapidly as they are ready to receive it. An Industry may not undertake administration for compliance until it has received an express authorization to this effect from NRA.

B. DEFINITIONS

1. Industrial Adjustment Agencies

The term "Industrial Adjustment Agency" wherever used in this Manual refers to any Agency of an Industry for obtaining compliance with its Code. The Code Authority itself will sometimes be the only Industrial Adjustment Agency for the Industry. More often, and preferably, Complaints Committees will be established *by* the Code Authority and they will in turn establish Adjustment Agencies for divisions of the Industry (Divisional Industrial Adjustment Agencies), or for territorial regions (Regional or Local Industrial Adjustment Agencies). In some cases Industrial Adjustment Agencies may be set up by an Industry *in addition* to its Code Authority.

2. Labor Complaints

The term "labor complaint" wherever used in this Manual refers to a complaint alleging a violation of the labor provisions of a Code.

3. Trade Practice Complaints

The term "trade practice complaint" wherever used in this Manual refers to a complaint alleging a violation of any provision of a Code other than the labor provisions.

4. Labor Disputes

The term "labor dispute" wherever used in this Manual refers to a situation where a strike or lockout exists or is threatened—or to a complaint which because it primarily involves Section 7(a) of NIRA may lead to a labor dispute.

C. MOST INDUSTRIES ARE ORGANIZED TO HANDLE TRADE PRACTICE COMPLAINTS

As soon as a Code Authority is set up and ready to function it will usually be well enough organized to adjust most complaints of violations of the *trade practice* provisions of the Code. Such complaints involve the rights of one employer against another employer within the Industry. Trade associations and other existing agencies of industrial self-government are well adapted to handle this type of complaint.

D. LABOR COMPLAINTS PRESENT MUCH MORE DIFFICULT PROBLEMS AND REQUIRE A REGIONAL ADJUSTMENT SYSTEM

The function of securing compliance with the labor provisions of Codes presents a much more difficult problem of organization and administration. Labor complaints, by their very nature, require a regional system of fact-finding and adjustment agencies. In order to protect the interests and rights of an employee under a Code, there must be agencies convenient in location and functioning so as to protect the interests of the employee. Very few Industries are organized at this time along lines suitable to adjustment and fact-finding in this type of case. Complaints of violations of labor provisions should not be referred to Industrial Adjustment Agencies unless the interests of the employee are adequately protected. (See Part Three, II, B, page 24.)

E. NRA HAS A FIELD ADJUSTMENT SYSTEM WHICH WILL FILL THE GAPS IN INDUSTRIAL SELF-GOVERNMENT

The Government has provided compliance agencies in each of the forty-eight States under the direction of the State Directors of the National Emergency Council.

As the volume of complaints increases it may become necessary in many cases to provide for local governmental adjustment agencies, which will report up through the State Directors. This governmental regional organization is a part of the Compliance Division of NRA under the direction of the National Compliance Director in Washington. It will fill the gaps in industrial self-government. To the extent required, it will act for an Industry while the Industry is organizing to

handle compliance problems for itself; or where an Industry in a certain territory has no Industrial Adjustment Agencies; or where an Industry, though organized to handle trade practice complaints, has no machinery to handle labor complaints; or where the Industry fails to carry through in its efforts to adjust a complaint; or where for any other reason it is necessary for the governmental rather than the industrial system to act.

F. COMPLAINTS TO BE FILED WITH THE STATE DIRECTOR UNTIL AN INDUSTRY'S INDUSTRIAL ADJUSTMENT AGENCIES HAVE BEEN AUTHORIZED TO HANDLE SUCH COMPLAINTS *"IN THE FIRST INSTANCE"*

Until an Industry has an Industrial Adjustment Agency authorized to handle a particular type of complaint *"in the first instance"* (see Paragraph G, 3, below) all complaints of that type should be filed by the complainant with the State Director.

G. COORDINATION OF INDUSTRIAL ADJUSTMENT AGENCIES AND NRA IS PROVIDED FOR

1. State Directors

The Compliance Division will keep the State Directors constantly informed as to which Industrial Adjustment Agencies are to handle particular types of complaints in particular territories, so that the State Directors may cooperate with them.

2. Complaints Handled by Industrial Adjustment Agencies *"On Reference"*

State Directors may be instructed to refer all complaints of a certain type to an Industrial Adjustment Agency *on reference*. This means that all complaints of this type filed with a State Director will be referred to an Adjustment Agency of the Industry (except where to do so would be subversive of the interests of an interested party or of the public) with instructions to report back within a specified time to the State Director as to the progress made in handling the case.

3. Complaints Handled by Industrial Adjustment Agencies *"In the First Instance"*

An Industrial Adjustment Agency may be authorized to receive complaints *in the first instance* and the State Directors will be instructed accordingly by NRA. Publicity will be given to such instructions so that all interested parties may know that one should complain *directly* to the Industrial Adjustment Agency. Thereafter, all such complaints will be adjusted within the Industry and only such complaints as the industry fails to adjust will be handled by NRA.

4. Complaints Adjusted Jointly by NRA and Industrial Adjustment Agencies

When an industry is completely organized to adjust all complaints, it may still be advantageous for it to call upon NRA to supplement its functioning. Thus, the preliminary investigation of some complaints may be done at the request of an Industrial.

Adjustment Agency by a regional governmental agency and the facts reported to the Industrial Agency. This again illustrates the fundamental theory underlying NIRA of industrial self-discipline with governmental partnership.

5. Right to File Complaints with NRA Directly

Even where an Industrial Adjustment Agency has been authorized to handle complaints in the first instance or on reference a complainant always has the right to file his complaint with NRA either in Washington or through the State Director in order to protect his or the public interest.

H. NRA AND THE CODE AUTHORITIES ARE ADJUSTMENT AGENCIES, NOT ENFORCEMENT AGENCIES

The system outlined by this Manual is designed to insure the speedy elimination, by *adjustment*, of such noncompliance as is due to misunderstanding, and the prompt prosecution of all cases of wilful noncompliance. Through the various Industrial Adjustment Agencies and the State Directors, all persons against whom complaints have been lodged will be given ample opportunity to demonstrate their desire to cooperate and to make restitution for any violation due to misunderstanding or ignorance. But cases of wilful violation will always be forwarded promptly to Washington for reference to the *enforcement* agencies of the Government.

J. THE DEPARTMENT OF JUSTICE AND THE FEDERAL TRADE COMMISSION ARE THE ENFORCEMENT AGENCIES OF THE GOVERNMENT

Ultimately, all unadjusted complaints reported up through an Industry by Industrial Adjustment Agencies will be referred to the Compliance Division of NRA in Washington, as will all unadjusted complaints reported up by the State Directors. If the National Compliance Director is unable to effect an adjustment, such complaints will be referred to the National Compliance Board. If it is unable to effect compliance it will turn the case over to the appropriate enforcement agency of the Federal Government—either the Department of Justice or the Federal Trade Commission. These will invoke the sanctions provided by law or take other action within their powers.

K. THIS MANUAL SETS OUT RULES FOR ADJUSTMENT

In the adjustment of complaints either by Industrial Adjustment Agencies or by State Directors, there are certain cardinal principles which must be followed. The Regulations set out in Parts Two and Three of this Manual embody these principles. However, there are two rules which are so important as to be deserving of particular mention here. These are:

1. All Complaints Must be Treated Confidentially

(a) If the name of the complainant is revealed it may mean the loss of his job. Conversely—the mere revelation of the fact that a complaint has been filed against an employer may arouse adverse public opinion which might be disastrous to his business. Therefore it is important to keep the names of the parties confidential.

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(b) If it is necessary to use the name of the complainant in order to effect a satisfactory adjustment and the complainant has not already given permission to use his name, the complainant's permission to do so should be requested. The mere fact that the respondent demands the name of the complainant does not, in itself, make it necessary to reveal the complainant's name in order to adjust a case. *In all cases where the complainant states that he does not wish his name to be revealed his wishes must be respected.*

2. Final Rulings on Interpretations, Exceptions, Exemptions and Modifications are to be Made by the National Recovery Administration, not by Code Authorities or by State Directors

(a) DEFINITIONS

(i) Interpretations

This term includes all rulings on the meaning of the language of a Code where the intent of that language is in doubt, i.e., where a knowledge of the surrounding circumstances and of the general policies of NRA on the part of the person or body making the ruling fails to remove the necessity for a decision on which reasonable men, equally well informed, might differ. Where no decision is required on which reasonable men, equally well informed, might differ, the ruling is not an interpretation but merely an "explanation."

(ii) Exceptions and exemptions

These terms include all rulings whereby an individual, group or class is released from the full operation of a provision of a Code.

(iii) Modifications

This term includes all rulings whereby a Code is amended by adding a provision thereto or changing or omitting any provision thereof.

(b) FINAL RULINGS

Industrial Adjustment Agencies and State Directors are encouraged to disseminate authoritative information on and explanations of Codes; but the promulgation of a final ruling on any of the above matters has the same effect as the promulgation of an approved Code and therefore it must be given the same balanced consideration by the Industry and NRA which was given to the promulgation of the Code. Therefore no rulings on these matters may be made except by NRA in Washington after receiving the recommendations of the Code Authority.

PART TWO.—ADJUSTMENT BY THE STATE DIRECTORS OF THE NATIONAL EMERGENCY COUNCIL OF COMPLAINTS OF NRA CODE VIOLATIONS

Part Two of this Manual is confined to Regulations outlining the manner in which complaints alleging violations of NRA Codes of Fair Competition will be handled by the State Directors of the National Emergency Council. These State Directors are charged with the duty of adjusting, whenever possible, all Code violations not adjusted by Industry and to that end, under these Regulations, will do everything within their power to secure compliance through education and explanation.

The State Directors are not enforcement officers. The enforcement agencies of the Government are the Federal Trade Commission and the Department of Justice.

I. STAFF FOR NRA COMPLIANCE WORK

In addition to an adequate clerical staff each State Director will be provided with the following personnel for NRA compliance work:

(a) A Labor Compliance Officer.

(b) An Office Manager.

(c) A Legal Adviser (when necessary).

Although only a skeleton organization will be provided at first, it will be expanded by NRA upon the recommendation of the State Director as the volume of work increases. For example, when the volume of trade practice complaints warrants, a Trade Practice Compliance Officer will be appointed. The Office Manager will serve as the Trade Practice Compliance Officer until the volume of such cases warrants an additional appointment.

When the volume of field work requires, enough Field Adjusters will be appointed to handle all complaints promptly. Until then, the Labor Compliance Officer and the Trade Practice Compliance Officer may act as their own adjusters. The Office Manager and the Legal Adviser may also act in this capacity.

The State Director is responsible for all action taken by his staff under these Regulations and may make such office rules as he deems desirable for the supervision of the activities of his staff.

II. RECEIPT OF COMPLAINTS

A. FORM OF COMPLAINTS

Complaints of Code violations will be in writing, preferably on the NRA Complaint Form, copies of which may be obtained at all Post Offices, except fourth class. Anonymous complaints will be acted upon at the discretion of the State Director.

B. WHERE COMPLAINTS SHOULD BE FILED

Complaints to be filed with the State Director should be sent to the office (or branch office) of the State Director for the territory in which is located the establishment or the person against whom the complaint is registered (hereinafter called the "respondent").

C. ROUTING OF COMPLAINTS

Complaints will be routed by the mail clerk to the Labor Compliance Officer or the Trade Practice Compliance Officer, depending upon whether they are labor or trade practice complaints. A competitor making a *labor* complaint against an employer may elect to have such a complaint treated as a *trade practice* complaint. In that case, if there is an appropriate Industrial Adjustment Agency authorized to handle trade practice complaints the complaint will be referred to that Agency.

III. COMPLAINTS WHICH MIGHT HAVE BEEN FILED WITH ANOTHER AGENCY

A. COMPLAINTS INVOLVING LABOR DISPUTES

Complaints which involve a situation where a strike or lockout exists or is threatened and complaints which, because they primarily involve Section 7(a) of NIRA, may lead to labor disputes will be forwarded directly to the appropriate Industrial Adjustment Agency or, if none is authorized to handle labor disputes, to the appropriate Regional Labor Board of the National Labor Board. Where a complaint is referred to a Regional Labor Board a brief report of such reference will be made to the National Labor Board and the complainant will be informed that the complaint has been so referred. If the alleged violation of Section 7(a) is merely incidental to another type of complaint, the matter will be handled as a labor complaint, not as a labor dispute.

B. COMPLAINTS WHICH MIGHT HAVE BEEN FILED WITH AN INDUSTRIAL ADJUSTMENT AGENCY *IN THE FIRST INSTANCE*

NRA will periodically inform the State Directors as to which Industrial Adjustment Agencies have been authorized to receive particular types of complaints *in the first instance* directly from the complainant. These complaints will be forwarded to the appropriate authorized Industrial Adjustment Agency, without any request for a Progress Report, unless the complainant indicates that he purposely filed the complaint with the State Director or that fact appears from the substance of the complaint—e.g., a complaint that the Code Authority is dominated by hostile or monopolistic interests—in which case the complaint was properly filed with the State Director. Whenever a complaint is transmitted to an Industrial Adjustment Agency the complainant will be so notified.

IV. HANDLING OF COMPLAINTS BY THE STATE DIRECTOR

All complaints which on their face appear to have been properly filed with the State Director will be examined for sufficiency. All doubtful complaints will be referred to the Legal Adviser for an

opinion as to their legal sufficiency. If the Legal Adviser is in doubt as to the legal sufficiency of a complaint, he should request, through the State Director, a ruling from NRA in Washington.

A. REJECTED COMPLAINTS

1. Complaints Based on Misunderstanding

A complaint will be rejected if it is obviously crank, or where, even if all the facts as stated therein are true, those facts do not constitute a violation of a Code. In the latter case, the complaint will be acknowledged and returned to the complainant with an explanation as to why it has been rejected.

2. Deficient Complaints

If it appears from the complaint that any provision of a Code may have been violated, but the complaint does not clearly state sufficient facts to establish a violation, the complainant will be advised wherein he failed to set forth a violation and will be requested to furnish additional information.

3. Complaints indicating a Deficiency in a Code

In some cases a complaint may indicate that conditions are permitted by a Code which violate the spirit and intent of NIRA or of the Code and yet do not constitute a technical violation of the Code because some provision of the Code is loosely drawn. In such a case, an explanatory letter will be sent to the complainant and the respondent and a report will be made to the National Compliance Director.

B. ACCEPTED COMPLAINTS

If a complaint states facts which, if true, constitute a violation of a Code, the complaint will be accepted. Accepted complaints fall into two classes and will be handled as follows:

1. Complaints which Industrial Adjustment Agencies are Authorized to Handle *on Reference*

(a) Digests (fully setting forth the facts of the complaint) or copies will be made in triplicate of all such complaints.

(b) One copy of the digest or of the complaint will be referred to the appropriate Industrial Adjustment Agency. A case so referred will be accompanied by a letter requesting a Progress Report as soon as possible, but in no event later than two weeks from the date of reference.

(c) A notice will be sent to the complainant stating that the complaint has been so referred and stating the name and address of the Adjustment Agency.

(d) If no report is received within the time specified the appropriate Compliance Officer will write the Agency to which the complaint was referred and request that a Progress Report be made by return mail. If there is no satisfactory answer to this inquiry by

return mail, the Compliance Officer will report this fact to the State Director who will advise the Agency that unless immediate word is received he will proceed to adjust the complaint directly on the assumption that the Agency has been unable to do so. The State Director will allow sufficient time to elapse to receive an answer and if no satisfactory answer is forthcoming within that time he will then instruct the Compliance Officer to proceed in the manner outlined below for adjusting complaints directly.

(e) If the Agency reports that the complaint has been adjusted, the complaint will be filed as adjusted and the complainant will be so advised.

(f) If the Agency reports that it is unable to adjust the complaint the State Director will proceed in the manner outlined below for adjusting complaints directly. In this case, however, all correspondence, interviews and findings of fact made by the Agency may be availed of as part of the record.

(g) The State Director will keep a record of all complaints sent to Industrial Adjustment Agencies *on reference* and when he believes that any such Agency is qualified to handle a particular type of complaint *in the first instance* he will make such a recommendation to the National Compliance Director.

2. Complaints which are to be Handled Directly by the State Director

(a) In every case where adjustment is undertaken by the State Director the first step will be to inform the respondent of the nature of the complaint, explain the part of the Code which it is claimed he is violating and ask him for a statement of his position. At the same time the State Director will furnish him with a copy of the Code for his Industry and a copy of the printed statement entitled "Information for Persons Charged with Violation of an NRA Code" (in the form prepared for use by State Directors). If the respondent does not reply within a reasonable time, the State Director will immediately communicate with him again to the same effect by registered mail, enclosing a copy of the Code and of the printed statement just mentioned.

(b) If the respondent admits the violation alleged but furnishes satisfactory evidence that he is now complying, is willing to comply in the future and has made equitable restitution for past violations, the case will be considered as adjusted and the complainant and the respondent will be so notified. Where an employee has been discharged for filing the complaint, the discharge will be treated as an aggravation of the original violation, and reemployment of the complainant will be a condition precedent to filing the case as adjusted.

(c) If the respondent denies the facts as alleged, or if he admits the facts but takes issue as to the meaning of the Code or asserts that he is not subject to the Code or there is a conflict of Codes, and if the respondent fails to satisfy the Compliance Officer that he is not violating a Code, he should be invited to appear at the office of the State Director and state his case, when in the opinion of

the Compliance Officer such an interview is expedient and might facilitate an adjustment. If no interview is held or if, after an interview, the case is still unadjusted, and it appears desirable for a Field Adjuster to visit the respondent, arrangements for such a visit should be made. (For the use of Field Adjusters see page 18.) If in any case there is doubt as to the meaning of the Code or as to whether the respondent is subject to the Code, or where there is a conflict or possible conflict of Codes, an official ruling should be obtained from NRA in Washington.

(d) Field Adjuster's Report

(i) If the Report of the Adjuster indicates that the respondent has not violated any provision of an approved Code, the complainant will be so advised by the Compliance Officer. If no further word is received from the complainant within a reasonable time, the case will be filed as adjusted and the respondent so advised.

(ii) If the Adjuster's Report indicates that the respondent is willing to comply and make equitable restitution for his past violations, the Compliance Officer will file the complaint as adjusted upon being furnished satisfactory evidence of present compliance and equitable restitution, and will so advise the complainant and respondent.

(iii) If, on the other hand, the report of the Adjuster indicates that the respondent refuses to comply or make equitable restitution for past violations or has failed to furnish a satisfactory explanation, the Compliance Officer—if he decides further action on his part would be futile—will lay the case before the State Director with his recommendations. The State Director will inform the respondent of the action which he decides to take thereon.

(e) Arbitration

If at any stage in the adjustment of any complaint arbitration is an appropriate means of adjustment the Compliance Officer may seek to induce the parties to arbitrate.

(f) *All complaints must be treated confidentially. See Introduction, Part One, page 7.*

C. STATE ADJUSTMENT BOARD

1. General

If in any case either the complainant or the respondent is dissatisfied with the final decision of the Compliance Officer, he should be afforded an interview with the State Director. If he is dissatisfied with the final decision of the State Director it should be made clear to him that he has the right to appeal to, and to appear in person before, the Adjustment Board, or to file a statement with that Board.

2. Organization

There will be one or more Adjustment Boards in each State. The number and location of these Boards will depend upon

the volume of cases submitted for consideration. The Board will be composed of an equal number of members (approved by NRA) representative of employees and of employers respectively, and a chairman representative of the public, agreed upon by the other members, to be appointed by the President.

The State Director will designate his Officer Manager to serve as Executive Secretary of the Adjustment Board. Clerical assistance will be furnished by the Office of the State Director.

The Legal Adviser on the staff of the State Director will advise the State Adjustment Board on legal matters whenever it so requests.

Whenever a respondent makes a statement before the Adjustment Board, a summary of the statement should be promptly prepared by the Executive Secretary of the Board or the Legal Adviser. The summary should be signed by the respondent, if he is willing. If he declines to sign it, a statement to this effect should be added to the summary. If the respondent declines to make any statement before the Board, the Board's recommendations should note that fact.

3. Functions

(a) A case will be submitted to the Adjustment Board by the State Director where either the complainant or respondent has requested such reference or where the State Director desires to place a matter before the Board.

(b) The Board will not decide on what action should be taken on cases, but will make recommendations to the State Director on matters submitted to it by him. The Board may recommend any action which may be taken by NRA as indicated in paragraph E below. Where the recommendations of the Board are not unanimous, the signed recommendations of each member should appear.

(c) If the State Director decides not to take action on a complaint but upon submission to the Adjustment Board a majority of the Board recommends that action should be taken, then, unless the complainant withdraws his complaint or the respondent complies with the recommendations of the Board, the State Director will report the case to the National Compliance Director.

(d) All recommendations of the Adjustment Board become a part of the record and whenever a case is forwarded to the National Compliance Director the original signed recommendations will accompany the case.

D. REFERENCE TO THE NATIONAL COMPLIANCE DIRECTOR BY THE STATE DIRECTOR

1. If adjustment has not been effected by the foregoing procedure the State Director will inform the respondent that unless the respondent furnishes satisfactory evidence of compliance within a stated number of days the complaint will be forwarded to the National Compliance Director in Washington for appropriate action.

2. If such evidence is not supplied within the number of days stated, the State Director will inform the respondent that he

is forwarding the case to the National Compliance Director. After allowing the respondent sufficient time to furnish evidence of compliance by return mail, the State Director will forward the case to the National Compliance Director with his recommendations. The State Director may recommend any action which may be taken by NRA as indicated in paragraph E below.

3. On forwarding the case to the National Compliance Director the State Director will transmit to him:

(a) The original complaint.

(b) A copy of the digest or of the complaint.

(c) All previous correspondence on the case.

(d) All original evidence, including all affidavits and all reports of Field Adjusters (if any).

(e) The recommendations of the Adjustment Board (if the case was referred to the Board).

(f) A summary of the respondent's statement before the Adjustment Board (if he made an oral statement to the Board) and his written statement to the Board (if he filed such a statement).

(g) A report signed by the State Director setting forth:

(i) That notice of the complaint was furnished to the respondent with an explanation of his obligations with reference to the subject matter of the complaint. (See paragraph 4 below.)

(ii) That a copy of the Code was furnished to the respondent. (See paragraph 4 below.)

(iii) That a copy of "Information for Persons Charged with Violation of an NRA Code," in the form prepared for use by State Directors, was furnished to the respondent. (See paragraph 4 below.)

(iv) A summary of the facts with reference to the violation, as found by the State Director, including relevant dates, names, hours, wages and the like.

(v) Details of any personal interviews the respondent had at the State Director's office.

(vi) Any other pertinent facts within the knowledge of the State Director.

(vii) The State Director's recommendations.

4. If the respondent did not answer, either personally or by letter, the State Director's first notice of the complaint, the State Director's report should further state that the matters referred to in (i), (ii) and (iii) immediately above were sent to the respondent by registered mail, and the original Post Office registry receipt should accompany the report.

5. *If at any time the State Director is convinced that a complaint conclusively sets forth a violation which the respondent shows no disposition to correct or adjust, the State Director may immediately refer the entire record in the case to the National Compliance Director without following the steps outlined above.* However, after a case has been

referred to the National Compliance Director under this paragraph, the respondent will be informed of such reference. He will also be informed that he has a right to appear before, or file a statement with, the Adjustment Board within a stated number of days. If the respondent appears before or files a statement with the Adjustment Board within the time set, the Board's recommendation should be forwarded to the National Compliance Director as soon as the case has been considered by it. If the respondent does not appear or file a statement within the time set, notice to that effect should be promptly given by the State Director to the National Compliance Director.

E. ACTION TAKEN IN WASHINGTON

1. National Compliance Director

When an unadjusted complaint is referred to the National Compliance Director he will take such action as he may deem advisable. If he is unable to adjust the complaint or feels that he should not make further attempts at adjustment, he will refer the case to the National Compliance Board.

2. National Compliance Board

Upon the reference of a complaint, with reports and recommendations thereon, to the National Compliance Board, that Board may decide to:

(a) Undertake further attempts to reach an adjustment.

(b) Call a public hearing on the case to be held in Washington or locally.

(c) Remove the Blue Eagle of the respondent and give publicity to this fact.

(d) Recommend to the Administrator that the case be referred for appropriate action to an enforcement agency of the Government, the Department of Justice, or the Federal Trade Commission. When a complaint is referred to one of these agencies, it may make further investigations or it may take appropriate legal action of a civil or criminal nature.

V. THE USE OF FIELD ADJUSTERS

A. GENERAL

When a case reaches the stage where there are controverted issues of fact, the use of Field Adjusters often becomes necessary to effect an adjustment. However, they should not be used as inquisitors and great care must be taken not to give that impression in the field.

B. TYPES OF ADJUSTERS

1. NRA Employees

In some instances all of the adjusters will be staff employees responsible only to the National Recovery Administration.

These may work directly out of the State Director's Office or may be stationed at points elsewhere in the State, reporting to the State Director's Office as occasion requires.

2. Employees on the Staffs of Cooperating Agencies

(a) The State Director will establish cooperative relations with available Federal and State Agencies within his State which have in their employ field representatives who might be utilized as Field Adjusters. There are many possible degrees of cooperative relationship. An individual employee of a cooperating agency may be authorized to investigate the facts of an individual complaint, or such an agency may be authorized to find the facts in all complaints which are referred to it.

(b) No final arrangements for cooperative relations should be completed until a report has been made to the National Compliance Director and his approval has been given to the proposed arrangements.

C. TECHNIQUE OF FIELD INVESTIGATION

1. (a) The Labor and Trade Practice Compliance Officers are responsible for the assignment of complaints to their Field Adjusters and the supervision of their activities in making necessary investigations.

(b) Field Adjusters will submit their proposed itineraries in advance for the approval of the appropriate Compliance Officer. In the preparation of itineraries the distances to be travelled should be kept to a minimum. Likewise, if it is necessary to make a special trip of some distance and it is possible that no responsible person will be available for interview, an appointment should be made beforehand.

(c) Field Adjusters will make daily and weekly summaries of their activities and will make complete reports on each complaint.

2. A Field Adjuster should never enter any premises without first calling upon the respondent to announce his presence and discuss the complaint.

3. If the respondent admits the facts as alleged in the complaint, his explanation should be obtained and a statement procured from him as to what he will do to end and to make equitable restitution for any violations which he admits.

4. If the respondent admits the facts as alleged but takes issue as to the application of the Code to those facts, a clear explanation of the reasons for his position should be obtained.

5. If the respondent denies the facts alleged in the complaint, the Field Adjuster should request permission to examine the appropriate records (such as time cards, pay rolls, canceled checks, invoices and sales slips). If the respondent refuses, the Field Adjuster should not insist upon access to such records. However, he should explain to the respondent that his refusal will be an indication that he does not desire to adjust the complaint and will

operate to his disadvantage. If the respondent still refuses, the Adjuster should report the fact.

6. Field Adjusters should not interview employees during working hours or upon the employer's premises without the permission of the employer.

7. Field Adjusters should bear in mind at all times that it is their function to find the facts and explain the respondent's obligations under the Code to him. They should never engage in argument or dispute.

PART THREE.—ADJUSTMENT BY CODE AUTHORITIES OF COMPLAINTS OF NRA CODE VIOLATIONS

I. INTRODUCTION

It is the fixed policy of the National Recovery Administration, as explained in the general Introduction to this Manual, to leave administration for compliance to Industry itself as far as possible. But the ultimate responsibility for the administration of Codes rests with NRA, and the work of obtaining compliance cannot be left to any particular Industry unless that Industry is properly organized for that purpose. To the extent to which it is not so organized that work will be performed by NRA.

This part of the Manual sets forth:

(a) certain acceptable standards for the organization of Industrial Adjustment Agencies.

(b) regulations governing the procedure whereby an Industry may obtain NRA's approval of its Industrial Adjustment Agencies.

(c) a suggested procedure to be followed by these Agencies in the adjustment of complaints.

In so far as this part of the Manual refers to the organization of Industrial Adjustment Agencies and the routing of complaints among them what is set forth here is merely one possible procedure. Industries will differ in their needs and will be free to propose plans suited to their individual requirements. However, so much of this Manual as governs the method of authorization of Code Authority organization and so much as governs the relationship of Industrial Adjustment Agencies to the National Recovery Administration are NRA Regulations.

II. ORGANIZATION OF INDUSTRIAL ADJUSTMENT AGENCIES

A. FOR TRADE PRACTICE COMPLAINTS

A Code Authority desiring to adjust trade practice complaints should organize a Trade Practice Complaints Committee. Its members should be representative of different groups and interests in the Industry, and should be persons of high repute for character, intelligence and fair-mindedness. As this Committee will have important responsibilities it should be small enough to function actively, and its members should be persons who are free to give to the Committee as much time as its work may require. The Committee should have a legal adviser (unless one of its members is qualified to act as legal adviser and assumes the obligation to do so) and an executive secretary who will be charged with the responsibility for all routine correspondence and records. The Administration Member of the Code Authority will be a member of the Committee without vote but with a veto, subject to review by NRA. He will be responsible to NRA for the proper functioning of the Committee.

Subject to the approval of the Code Authority, the Committee may set up divisional, regional or local Industrial Adjustment

Agencies and use available agencies in the Industry, such as existing Trade Associations. If desired, the Committee and its divisional, regional or local Adjustment Agencies may be set up for only certain of the divisions of the Industry or regions of the country, leaving the other divisions or regions to the governmental agencies.

B. FOR LABOR COMPLAINTS

If the Industry desires to adjust its own labor complaints, it must provide adequate adjustment machinery. The interests of the employees in the Industry must be protected by this machinery. In order to set up adequate machinery a Labor Complaints Committee should be organized.

An approved organization of such a committee would be one having an equal number of representatives of employers and employees, who would choose an additional member as chairman. The representatives of the employers may be appointed by the Code Authority subject to the disapproval of NRA. The representatives of the employees should be chosen in such manner that all employees in the industry may be represented as fairly as possible. A possible method of selection may be appointment by the President (or the Administrator, in industries with less than 50,000 employees) upon the recommendation of the Labor Advisory Board of NRA. Any other organization agreed upon by the employees and employers in the Industry may be approved by NRA. The Committee should be small enough to function actively, and its members, as far as possible, should be persons who are free to give the Committee as much time as its work may require. The Committee should have a legal adviser and an executive secretary who will be charged with responsibility for all routine correspondence and records. The Administration Member of the Code Authority will be a member of the Committee without vote but with a veto, subject to review by NRA, and will be responsible to NRA for the proper functioning of the Committee.

The Committee may set up divisional, regional or local Agencies.

The Committee and its divisional, regional and local Industrial Adjustment Agencies may be organized to function for only certain of the divisions of the Industry or regions of the country, leaving the other divisions or regions to governmental agencies.

C. FOR LABOR DISPUTES

An Industry which desires to adjust its own labor disputes (subject to any regulations which may be issued by the National Labor Board or the Administrator) should set up a Labor Disputes Committee. Its membership and organization should be in accordance with what has been said above with reference to the Labor Complaints Committee. The procedure to be followed in the settlement of labor disputes is not covered by this Manual.

The Labor Disputes Committee may be organized to cover only certain divisions or regions, and may have divisional or regional agencies, which, if desired, may be identical with the divisional or regional agencies of the Labor Complaints Committee.

If a Committee is organized to handle both labor complaints and labor disputes, it may be referred to as the Industrial Relations

Committee of the Industry. In any event, where an industry has both a Labor Complaints Committee and a Labor Disputes Committee their work should be coordinated.

D. DEFINITIONS

The term "Complaints Committee" is a collective term for Trade Practice Complaints Committees, Labor Complaints Committees, Labor Disputes Committees and Industrial Relations Committees ("highest Industrial Adjustment Agencies"). The term "Industrial Adjustment Agencies" includes all the Complaints Committees and all divisional, regional and local Adjustment Agencies.

III. PROCEDURE TO BE FOLLOWED BY A CODE AUTHORITY TO OBTAIN AUTHORIZATION FOR ITS INDUSTRIAL ADJUSTMENT AGENCIES TO ADJUST TRADE PRACTICE COMPLAINTS, LABOR COMPLAINTS OR LABOR DISPUTES

A. AUTHORIZATION FROM NRA IS REQUIRED

Many Codes of Fair Competition contain statements that the Code Authority is authorized or required to adjust complaints of various kinds within the Industry. Such statements are not in themselves an authorization to the Code Authority to proceed to adjust complaints. In addition to what is stated in the Code concerning the duties of the Code Authority in this connection, the Code Authority must obtain NRA's approval of the proposed set-up of Industrial Adjustment Agencies and after those agencies have been actually set up the Code Authority must obtain NRA's authorization for them to proceed with the adjustment of complaints. This approval and authorization should be requested through the Administration Member of the Code Authority in formal reports to NRA. As soon as the Deputy Administrator has notified the Code Authority that it is authorized to receive complaints *in the first instance* or that it is authorized to handle complaints *on reference*, the Deputy Administrator will certify this fact to the National Compliance Director, so that appropriate notice may be given to the State Directors.

B. REPORTS BY THE ADMINISTRATION MEMBER OF THE CODE AUTHORITY TO NRA

These reports should be submitted in triplicate and set forth:

1. The names, addresses and occupations of all members of the Industrial Adjustment Agencies and a statement of the groups and interests represented by each member (when the members have already been selected);

2. An explanation, in the case of all Industrial Adjustment Agencies organized to handle labor complaints or labor disputes, of the manner in which the representatives of the employees have been or are to be selected;

3. The business addresses of all Industrial Adjustment Agencies (if already fixed);

4. The exact scope of all Industrial Adjustment Agencies; and

5. Whether complaints within the scope of a divisional, regional or local Agency are to be filed with it in the first instance or with a higher Adjustment Agency or with the State Director.

All changes in Industrial Adjustment Agencies must be reported in like manner.

IV. A SUGGESTED PROCEDURE TO BE FOLLOWED BY A CODE AUTHORITY IN THE ADJUSTMENT OF COMPLAINTS

A. FORM OF COMPLAINTS

1. Complaints of Code violations will be in writing, preferably on the NRA Complaint Form, copies of which may be obtained at all Post Offices, except fourth class.

2. Anonymous complaints will be acted upon at the discretion of the Adjustment Agency.

B. RECEIPT OF COMPLAINTS

1. Where Complaints Should be Filed

If a Code Authority has been authorized by NRA to handle complaints of a particular type *in the first instance*, complaints of that type should be filed with the appropriate Industrial Adjustment Agency except where a complainant exercises his right to file his complaint with the State Director.

2. Sources of Complaints

The State Director is the only person who should file complaints with an Industrial Adjustment Agency authorized to handle complaints *on reference* only. Such an Agency will probably receive complaints from other sources by mistake. An Agency authorized to handle complaints *in the first instance* will receive complaints from all sources, including the State Director, the Code Authority, employers and employees in the Industry, and the general public.

3. Complaints Improperly Filed with an Industrial Adjustment Agency

Complaints will be filed with an Industrial Adjustment Agency which should not be filed with it at all. The principal classes of such complaints and the manner in which they will be handled are as follows:

(a) Complaints Not Relating to the Code for That Particular Industry

If there is an Adjustment Agency authorized to handle complaints *in the first instance* in the Industry involved in the complaint, the Adjustment Agency which erroneously received the complaint should forward it to that authorized Agency. If there is no such Agency, or if the Agency receiving the complaint is in doubt, the complaint should be forwarded to the proper State Direc-

tor. In either event the complainant should be notified of the action taken.

(b) Complaints Relating to the Code for That Industry But of a Character Which the Particular Adjustment Agency Which Has Received the Complaint is Not Authorized to Handle

If there is in the Industry an appropriate Adjustment Agency authorized to handle complaints of this character *in the first instance,* the complaint should be forwarded to that Agency. Otherwise it should be forwarded to the State Director.

(c) Complaints Received in the First Instance by an Adjustment Agency Authorized to Adjust Complaints of That Character on Reference Only

Copies or digests of the complaint should be made, and the original complaint, together with two copies of the digest or of the complaint, should be sent immediately to the proper State Director. Thereafter the complaint should be handled by the Adjustment Agency in the same manner as if it had been referred to the Agency by the State Director for handling *on reference.*

4. Acceptance or Rejection of Complaints

(a) Examination of Complaints

All complaints which are proper ones for the Industrial Adjustment Agency receiving them to handle will be examined for legal sufficiency. Where the volume of complaints makes it desirable the Agency should retain a legal adviser.

(b) Rejected Complaints

(i) Complaints based on misunderstanding

A complaint will be rejected if it is obviously crank, or where, even if all the facts as stated therein are true, those facts do not constitute a violation of the Code. In the latter case, the complaint should be acknowledged and returned to the complainant with a brief explanation as to why it has been rejected.

(ii) Deficient complaints

If it appears from the complaint that any provision of the Code may have been violated, but the complaint does not clearly state sufficient facts to establish a violation, the complainant should be advised wherein he failed to set forth a violation, and may be requested to furnish additional information.

(iii) Complaints indicating a deficiency in the Code

In some cases a complaint may indicate that conditions are permitted by the Code which violate the spirit and intent of NIRA or of the Code and yet do not constitute a technical

violation of the Code because some provision of the Code is loosely drawn. In such a case, an explanatory letter should be sent to the complainant and to the respondent, and a report always should be made to the National Code Authority.

(iv) Accepted Complaints

If a complaint states facts which, if true, constitute a violation of the Code, the complaint will be accepted.

C. HANDLING OF ACCEPTED COMPLAINTS BY AN INDUSTRIAL ADJUSTMENT AGENCY

1. All Complaints Must Be Treated Confidentially

See Introduction, Part One, page 7.

2. Notice to Respondent That Complaint has Been Filed

In every case where adjustment is undertaken by an Industrial Adjustment Agency, the first step should be to inform the respondent of the nature of the complaint, explain the part of the Code which it is claimed he is violating, and ask him for a statement of his position. At the same time the Agency should furnish him with a copy of the Code and a copy of the printed statement entitled "Information for Persons Charged with Violation of an NRA Code," in the form prepared for use by Industrial Adjustment Agencies. If the respondent does not reply within a reasonable time, the Agency will immediately communicate with him again to the same effect by registered mail, enclosing a copy of the code and of the printed statement just mentioned.

3. Where Respondent Admits Violation

If the respondent admits the violation alleged but furnishes satisfactory evidence that he is now complying, is willing to comply in the future and has made equitable restitution for past violations, the Adjustment Agency should notify the complainant and the respondent that the complaint has been filed as adjusted. Where an employee has been discharged for filing the complaint, the discharge should be treated as an aggravation of the original violation, and reemployment of the complainant must be a condition precedent to filing the case as adjusted.

4. Where Respondent Denies Violation

If the respondent denies the facts as alleged, or if he admits the facts but takes issue as to the meaning of the Code or asserts that he is not subject to the Code or there is a conflict of Codes, and if the respondent fails to satisfy the Adjustment Agency that he is not violating a Code, he should be invited to appear at the office of the Adjustment Agency and state his case, when such an interview seems expedient and likely to facilitate an adjustment. If no interview is held or if, after such an interview, the case is still unadjusted, and it appears desirable for a Field Adjuster to visit the respondent, arrangements for such a visit should be made. The Field Adjuster may be either an adjuster in the service of the Adjustment Agency, or an NRA Field Adjuster in the service of the State Director.

If the services of one of these Field Adjusters are desired by the Adjustment Agency, a request should be addressed to the appropriate State Director. In any case where there is doubt as to the meaning of the Code or as to whether the respondent is subject to the Code or where there is a conflict or possible conflict of Codes, an official ruling should be obtained from NRA through the Code Authority.

5. Field Adjuster's Report

(a) If the Report of the Adjuster indicates that the respondent has not violated any provision of the Code, the complainant will be so advised by the Adjustment Agency. If no further word is received from the complainant within a reasonable time, the case will be filed as adjusted and the respondent so advised.

(b) If the Adjuster's Report indicates that the respondent is willing to comply and make equitable restitution for his past violations, the Adjustment Agency will file the complaint as adjusted upon being furnished satistactory evidence of present compliance and equitable restitution, and will so advise the complainant and respondent.

(c) If, on the other hand, the report of the Adjuster indicates that the respondent refuses to comply or make equitable restitution for past violations or has failed to furnish a satisfactory explanation, the Adjustment Agency—if it decides further attempts to adjust the complaint on its part would be futile—will inform the respondent of the action which it decides to take thereon.

6. Right to Appear in Person

If in any case either the complainant or the respondent is dissatisfied, it should be made clear to him that he has the right to appear in person before the Adjustment Agency or to file a statement with that Agency and, if still dissatisfied, to take the case up to a higher Adjustment Agency or with the State Director or NRA in Washington. If the respondent makes a statement before the Adjustment Agency, a summary should be immediately prepared. It should be signed by the respondent if he is willing. If he refuses to sign it this fact should be noted in the summary. If he refuses to make any statement that fact should be noted in the Agency's file on the case.

7. Arbitration

If at any stage in the adjustment of any complaint arbitration appears to be an appropriate means of adjustment, the Adjustment Agency may seek to induce the parties to arbitrate.

8. Report of Adjustment or Return to State Director of Complaint Handled *on Reference*

(a) Where a complaint is being handled by an Adjustment Agency *on reference* it will make a Progress Report to the appropriate State Director as soon as possible. Such a Report must be furnished within the time specified by the State Director, in no event more than two weeks from the date of reference.

(b) When a case which an Adjustment Agency is handling *on reference* is disposed of by being satisfactorily adjusted, a report should be promptly made to the State Director.

(c) When a case which an Adjustment Agency is handling *on reference* is not disposed of by being satisfactorily adjusted within the time specified by the State Director and the State Director is not satisfied with the progress indicated by the Progress Report, the State Director will proceed to handle the case directly and will so inform the Adjustment Agency.

9. Transmittal of a Case to NRA by Adjustment Agency Authorized to Handle the Complaint *in the First Instance*

(a) If the particular Adjustment Agency authorized to receive a particular complaint *in the first instance* is unable to adjust it, it should forward the original complaint and all relevant papers to the next higher Adjustment Agency, together with a report sufficient to serve as a basis for the report required in case of ultimate transmittal of the case to NRA. (See Paragraph (c) below.) If this latter Agency is unable to effect adjustment and there is a higher Adjustment Agency, it will forward the case to that Agency in the same manner. Detailed regulations regarding transmittal from one Adjustment Agency to a higher Adjustment Agency should be furnished by the highest Adjustment Agency.

(b) If adjustment has not been effected by the foregoing procedure, the highest Ajustment Agency may inform the respondent that unless the respondent furnishes satisfactory evidence of compliance within a stated number of days, the complaint will be sent to NRA in Washington.

(c) If such evidence is not supplied within the number of days stated, the highest Adjustment Agency should inform the respondent that it is transmitting the case accordingly. After allowing the respondent sufficient time to furnish evidence of compliance by return mail, the highest Adjustment Agency will forward the case to NRA, with its recommendations. On forwarding the case to NRA, the highest Adjustment Agency should transmit:

(i) The original complaint.

(ii) A copy of the complaint or of a digest of the complaint.

(iii) All previous correspondence on the case.

(iv) All original evidence, including all affidavits and all reports of Field Adjusters (if any), and all findings of fact by lower Adjustment Agencies.

(v) The recommendations of the highest Adjustment Agency and of all other Adjustment Agencies that have handled the case.

(vi) Summaries of the respondent's statements before the Adjustment Agencies that have handled the case, and any written statements submitted by him.

(vii) A report signed by a proper officer of the highest Adjustment Agency setting forth:

(aa) That notice of the complaint was furnished to the respondent, with an explanation of his obligations with reference to the subject matter of the complaint. (See paragraph (d) below.)

(bb) That a copy of the Code was furnished to the respondent. (See paragraph (d) below.)

(cc) That a copy of "Information for Persons Charged with Violation of an NRA Code," in the form prepared for use by Industrial Adjustment Agencies, was furnished to the respondent. (See paragraph (d) below.)

(dd) A summary of the facts with reference to the violation, as found by the highest Adjustment Agency, including relevant dates, names, hours, wages and the like.

(ee) Details of any personal interviews the respondent had at the office of Adjustment Agencies handling the case (in so far as such interviews are not covered by summaries of the respondent's statements).

(ff) Any other pertinent facts within the knowledge of the highest Adjustment Agency.

(d) If the respondent did not answer, either personally or by letter, the first notice of the complaint, the highest Adjustment Agency's statement should further state that the matters referred to in (aa), (bb) and (cc) immediately above were sent to the respondent by registered mail, and the original Post Office registry receipt should accompany the report.

(e) *If at any time the highest Adjustment Agency is convinced that a complaint conclusively sets forth a violation which the respondent shows no disposition to correct or adjust the case may be immediately referred to NRA without following the steps outlined above.*

10. Labor Disputes.

If at any time in the adjustment of a complaint, a situation develops where there is a threatened or actual strike or lockout, the complaint, together with a report of all action taken thereon to date and of all other pertinent facts, will be referred direct to the appropriate Industrial Adjustment Agency if one has been authorized to handle labor disputes, or, if not, to the appropriate Regional Labor Board of the National Labor Board.

11. Recommendations.

(a) An Industrial Adjustment Agency may recommend any action which may be taken by NRA as indicated in Part Two, IV, E, page 18.

(b) All recommendations for action to be taken by NRA should be signed by the members of the Agency making the recommendations (together with a statement as to the interests each member represents).

(c) Where the recommendations of the Adjustment Agency are not unanimous, the signed recommendations of each

member should appear (together with a statement as to the interests which each of them represents).

D. COMPLAINTS REFERRED TO AN INDUSTRIAL ADJUSTMENT AGENCY BY THE NATIONAL COMPLIANCE DIRECTOR

A complaint relating to an Industry which has no Adjustment Agency authorized to handle complaints of that character either *in the first instance* or *on reference* may be sent by NRA to the Code Authority of the Industry, to attempt to settle the complaint through the weight of public opinion in the Industry. The Code Authority may sometimes be in a position to do this, even though it has no Agency in the Industry to handle such complaints.

E. GENERAL

1. Relation of the Highest Industrial Adjustment Agency to Divisional, Regional and Local Agencies

In each Industry in which divisional, regional or local Adjustment Agencies are set up, the Complaints Committees of the Code Authority should issue regulations which clearly define their relations to the divisional, regional, and local Agencies. These regulations must be filed with NRA and should cover at least the following points:

(a) The nature of the complaints which may be handled by each divisional, regional or local Agency.

(b) The reports to be made by all the Agencies to the Complaints Committees as a basis for their reports to the National Compliance Director.

(c) Whether complaints may be filed by the complainant direct with the divisional, regional or local Agencies and, if not, where complaints so filed in error should be sent.

(d) The manner in which complaints will be sent upon review or appeal to higher Agencies. For example, the regulations may provide that *if at any time a lower Adjustment Agency is convinced that a complaint conclusively sets forth a violation which the respondent shows no disposition to correct or adjust the case may be immediately referred to the highest Adjustment Agency without following the steps outlined above.*

(e) Communication with NRA.

(f) General rules and regulations for handling complaints in amplification of the procedure suggested in this Manual.

2. Suits by Code Authorities

Suits *by* Code Authorities and their Adjustment Agencies in relation to a Code fall in the field of enforcement rather than adjustment, and should not be brought without the express prior approval of NRA. All suits *against* Code Authorities should be promptly brought to the attention of NRA.

HUGH S. JOHNSON,
Administrator.

APPENDIX VI.

Office Order No. 37

October 24, 1933

Rules and Regulations Governing Complaints Under
Section 3 (e) of Title I of the
National Industrial Recovery Act
Issued Pursuant to Executive Order October 23, 1933

(1) Who May Make Complaint

As prescribed in Section 3 (e) of Title I of the National Industrial Recovery Act, complaint may be made by "any labor organization, or any trade or industrial organization, or group which has complied with the provisions" of Title I of the National Industrial Recovery Act by having in actual operation a code or agreement pursuant thereto. Ordinarily complaints should be made by a trade, industrial or labor organization or by a group (organized or unorganized) of producers, representing more than half of the production of the article or articles which it is claimed are affected by competition from imports.

(2) Under What conditions Complaints may be Made

Under the law, action may be taken under Section 3 (e) only when imports of the article or articles which are the subject of complaint are substantial or are being entered in increasing ratio to domestic production of any competitive article or articles. The complainant must be prepared to furnish definite and detailed evidence that imports are on such terms or conditions as to render ineffective or seriously to endanger the maintenance of any code or agreement.

(3) To Whom Complaints Should be Addressed and With Whom Filed

Complaints should be addressed to the president of the United States and three copies mailed to or filed with the Imports Division of the National Recovery Administration, Washington, D. C.

(4) Form of Complaints

Complaints should be made in the following form:

_____(Place)
_____, 193__

The President,
White House,
Washington, D. C.

Dear Mr. President:

The undersigned, having complied with the provisions of Title I of the National Industrial Recovery Act, do hereby, pursuant to Sections

3 (e) of said title, make complaint that _____
(Name articles and the tariff
_____ are being imported into the United States
paragraphs covered by each)
in such substantial quantities or in such increasing ratio to domestic production and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of the code of fair competition approved (or prescribed) by you on _____
(date)
for _____ agreement entered into with you _____
(date)
for _____.
(Trade, or industry or subdivision thereof)

In support of this complaint, we are enclosing herewith the schedule of information required to be filed with complaints under said section 3 (e). You will also find enclosed _____
(List other tables, brief, affidavits,
_____.
etc. enclosed)

Furthermore, the undersigned and all parties in interest represented by them are prepared to furnish to the National Recovery Administration and/or the United States Tariff Commission all pertinent information in their possession, and to make available all books of account and all other records and papers for inspection and analysis by their duly accredited agents.

It is understood that all information regarding the operations of individual producers, now given or which will be given or obtained, is to be held in confidence.

Respectfully,

(Signature of Complainants)
(Address of Complainants)

(5) Schedule of Information

Each complaint must be supported by such specific information as may be necessary to establish a prima facie case for an investigation under Section 3 (e). The type of information necessary to enable a decision on the question whether an investigation is warranted is outlined in the Schedule of Information which follows. If the information called for therein is given fully at the time of filing a complaint, it not only will facilitate decision whether the complaint should be made the subject of an investigation but also will expedite the completion of the investigation should it be ordered. Some of the information called for, such as that with respect to production, is obtainable only from complainants and is absolutely essential to determining the question whether an investigation is warranted.

Hugh S. Johnson
Administrator

SCHEDULE OF SUPPORTING INFORMATION TO ACCOMPANY COMPLAINTS UNDER SECTION 3 (e) OF TITLE I OF THE NATIONAL INDUSTRIAL RECOVERY ACT

NOTE: A SEPARATE SCHEDULE SHOULD BE MADE OUT IN DUPLICATE FOR EACH COMMODITY LISTED IN THE COMPLAINT.

(Where it is not possible to supply the information called for in any section of this schedule, the reason should be clearly and specifically stated in that section.)

A. Subject of Complaint.

(1) Name of the commodity the imports of which are the subject of complaint_____

(2) If complaint is confined to specific varieties, grades, or types of the commodity, state the varieties, grades or types to which it is confined_____

(3) State paragraph number in Act of 1930 covering the commodity which is the subject of complaint_____

B. Trend of Imports

(This section should be made out only if import statistics are readily available to complainants.)

(1) By years

Year	In Quantity (_____ unit)	In Value
1923		
1925		
1927		
1929		
1931		
1932		

(2) By months

Month	Quantity (_____ unit)				In Value			
	1931	1932	1933	1934	1931	1932	1933	1934
January								
February								
March								
April								
May								
June								
July								
August								
September								
October								
November								
December								

C. Range and variety of imports

(Questions in this section must be answered fully)

(1) Describe the range and variety of imports as to type, variety, grade, weight, composition, degree of purity, and other distinguishing characteristics.

(2) What types, varieties, grades, etc., are the largest items of import?

D. Range and variety of domestic production

(1) Describe the range and variety of domestic production as to type, variety grade, weight, composition, degree of purity and other distinguishing characteristics.

(2) What types, varieties, grades, etc., are the largest items of production?

E. Comparability of imports and production

(1) State the varieties, types, grades, weights, etc. of imports and of domestic production which are most nearly comparable in use and price. In each case state which of the two, the domestic or the imported product, usually sells in a common market to the same class of buyers for the higher price; state also the difference, if any, between the two in kind of material, in weight, construction, in dye or finish, in purity, in appearance, or in other important characteristics.

(2) If the commodity is one in which differences in quality are important and if it is not too bulky or too expensive, submit (as Exhibit A-1, A-2, A-3, etc.) samples of the imported grades and (as Exhibits B-1, B-2, B-3, etc.) samples of the domestic grades given above as most closely comparable with imports, B-1 with A-1, B-2 with A-2, etc. List below the samples, if any submitted:

Exhibit number	Description of sample
Items representative of imports	
Exhibit A-1	
Exhibit A-2	
Exhibit A-3	
Domestic items most comparable with imported sample	
Exhibit B-1	
Exhibit B-2	
Exhibit B-3	

(9) If the commodity concerned in the complaint is a material used in further manufacture, into what finished product and what types or grades (high, medium, or low price) of finished product, does the -

(a) Imported product go_____

_____

_____

_____

(b) Domestic product go_____

_____

_____

_____

G. Prices of the domestic article concerned in the complaint

(It is important that the information asked for in this section be given)

(1) Give actual net wholesale selling prices in each month shown below for one or two grades or types which are the largest items of domestic production and for one or two grades or types which are most comparable with the principal items of import.

Price Per_____Delivered to

_____or F.O.B._____

(Principal market in which competition is encountered with imports) (Shipping points)

Month and Year	Grade or grades produced in the U.S. in largest quantity		Grade or grades most comparable with imports	
	(Name of Grade1/	(Name of Grade1/	(Name of Grade1/	(Name of Grade1/
1929				
July				
1932				
Jan.				
Apr.				
July				
Oct.				
1933				
Jan.				
July				
Aug.				
Sept.				
Oct.				
Nov.				
Dec.				
1934				
Jan.				
Feb.				
Mar.				
Apr.				
May				
June				
July				
Aug.				
Sept.				
Oct.				
Nov.				
Dec.				

1/ If sample is being filed, give Exhibit Number

H. Domestic production

(1) Official production statistics

If readily available to complainants, give total domestic production of the commodity as recorded by some government agency or trade association for the following years:

The source of figures given is _____

Unit of quantity is _____

Year	Total Domestic Production		Domestic production of articles most competitive with imports	
	Quantity	Value	Quantity	Value
1923				
1925				
1927				
1929				
1931				
1932				
1933				

(2) Trend of production of complainants.

(The information here required is essential to the disposition of any complaint)

If practicable the individual producers should submit their production of the commodity which is the subject of complaint to the trade association or other agency representing them and the table below should be made out for the combined production of all the plants represented in the complaint. If that is done, append as Exhibit C separate tables showing the production of each plant represented in the complaint.

If not practicable for individual producers to submit their production statistics to the trade association or other agency representing them, each producer may file separately with the Imports Division of the National Recovery Administration the statistics called for in the table below. If that is done, merely state below that individual producers are separately submitting statistics of their production.

If the complainant is a labor organization, the data should be supplied, if possible, for the firms with which the members of the organization are employed.

PRODUCTION OF COMPLAINANTS

(Unit of Quantity)

Month and Year	Total production of the commodity	Production of the grade or grades most comparable with imports
1929		
1931		
1932		
January-March		
April-June		
July-September		
October-December		
1933		
January-March		
April-June		
July		
August		
September		
October		
November		
December		
1934		
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

(3) Importance of the commodity in production

(It is essential to furnish the information here called for)

For each plant represented in the complaint, state separately the percentage which the commodity concerned in the complaint is of the total value of production (or value of sales if value of production is not available) of all commodities in the plant.

Name and location of plant	Ratio of the value of production of commodity concerned in the complaint to total value of production of all commodities		
	1929 (percent)	1931 (percent)	1932 (percent)

I. Number of employes and amount of payroll

(The data here called for are essential for the disposition of complaints)

The table below, with respect to the number of workers and the amount of payrolls, should be filled out separately for each plant represented in the complaint, or for selected plants, representative in geographic distribution, and representative of both large and small operations and of different classes of producers (such as those with different processes of production.) Moreover, if desired, each producer may not only fill out but may file this table separately for his plant or, if he has more than one plant, for each of his plants taken as representative of his production. If the individual concerns file the table separately, merely state below that individual producers are separately submitting statistics of employment and wages. In any case, the data given for individual concerns will be held in strictest confidence.

If the complainant is a labor organization, the data should be supplied, if possible, for the firms in which the members of the organization are employed.

The data given in the table should be for workers other than superintendents, foremen and office help and for the amount of the payroll of these employes for the payroll period including the 15th day of the month named.

EMPLOYMENT AND PAYROLL STATISTICS

for_____ Located at_____
(Place)

Operated by_____
(Name of producing concern)

Payroll Period including 15th of-	Number of employees engaged in producing		Payroll for -		Time plant in operation during payroll period stated in-	
	All commodities produced in plant	Commodity which is subject of complaint	All Workers	For workers on commodity which is subject of complaint	Hours	Days
1929						
Jan.						
July						
1932						
Jan.						
July						
1933						
Jan.						
Apr.						
July						
Aug.						
Sept.						
Oct.						
Nov.						
Dec.						
1934						
Jan.						
Feb.						
Mar.						
Apr.						
May						
June						
July						
Aug.						
Sept.						
Oct.						
Nov.						
Dec.						

J. Costs of Production

Complainants should supply costs of production exclusive of interest on investment in the detail called for in the table below for the first half of 1933 on one or two of the items produced in the greatest quantity in the United States and one or two of the items most nearly comparable with imports in price and use and listed in answer to question E above. These costs should be given separately for each plant represented in the complaint, or for selected plants representative in geographic distribution, and representative of both large and small operations and of different classes of producers (such as those using different processes of production.) Moreover, each producer may not only fill out but may file this table separately for his plant, or if he has more than one plant, for each of his plants taken as representative of his production. In case this is done, merely state at this point in the schedule that individual producers are separately submitting cost data. In any case, the data given for individual concerns will be held in strict confidence.

In addition, show for each plant for which costs are given for the first half of 1933, the change, if any, in labor costs and other specified cost elements due to the adoption of a code or agreement under the National Industrial Recovery Act.

If detailed costs are not given in the Table below, there must be shown the approximate percentage which labor costs were of total costs before adherence to a code or agreement and the approximate percentage which labor costs are of total costs since such adherence.

If the complainant is a labor organization, the data should be supplied, if possible, for the firms in which the members of the organization are employed.

COSTS OF PRODUCTION EXCLUSIVE OF INTEREST ON INVESTMENT

For_____ Located at_____
(Plant) (Place)

Operated by_____
(Name of producing concern)

Unit of quantity_____

	Items produced in greatest quantity		Items most nearly comparable with imports	
	1/ (Name of Item)	1/ (Name of Item)	1/ (Name of Item)	1/ (Name of Item)
Material				
Labor				
Factory expense, except depreciation				
Total depreciation				
Depletion (if any)				
General and administrative expense				
Selling expense (exclude trade discounts)				
Total				

1/ If sample is being filed, give Exhibit number.

K. General

(1) List principal reasons for asking action under Section 3 (e).

(2) What is the nature of the action you suggest be taken under Section 3 (e).

(3) List any additional exhibits (Exhibit D, etc) which you are enclosing. Designate in a general way the subject of each exhibit.

The undersigned and all the firms represented by them agree to make available all books and records necessary for checking the figures submitted in answer to this schedule.

Signatures	Addresses

Date:_____

Note: If a complainant is a trade or industrial association, list below each member interested in the complaint; if, a labor union, list each firm in which members of the union are employed in making domestic articles competitive with the imported article which is the subject of complaint.

Name	Address

APPENDIX VII

THE PRESIDENT'S REEMPLOYMENT PROGRAM

National Recovery Administration--Bulletin No. 3--July 20, 1933

President's Reemployment Program

(Agreements with the President under section 4 (a) N.I.R.A.)

1. Names

To save space and time, we will call the National Industrial Recovery Act N.I.R.A., and the National Recovery Administration, N.R.A.

2. Industrial self-government

Bulletin No. 2, dated June 19, 1933, shows how to submit codes of fair competition under N.I.R.A., section 3(a). It permits industries and trade associations to organize for self-government, to increase employment and improve labor conditions, to wipe out unfair practices, to discipline themselves, and to stabilize their operations. Nothing will be permitted to slow up that process. It must go fast if business is to do for itself and for the country the great good offered by N.I.R.A. It will proceed as promptly as codes can come in and be heard. Nothing in this bulletin and nothing in our plans or statements change that process, which will go on without any regard whatever to the new and additional plan set forth in this bulletin (No. 3).

3. Codes and agreements distinguished

But swift-moving changes require swift action. A rapid rise in prices and mass production is going on. Mass purchasing power must rise as fast. The President has stated his policy to do this by prompt shortening of the work week and raising of wages for the shorter week. Rules governing hours and wages of labor must be included in every code and codes must continue to come along as fast as possible. But whole industries must organize and have many conferences before codes can be worked out and that takes a long time. In this national emergency, we cannot delay broad reemployment while we wait for codes. If we are not to have a set-back in our returning prosperity, and if we are to take this chance to get out of this depression, we must act more quickly to get more and fatter pay envelopes to our workers. We can do this under section 4 (a), N.I.R.A., which, in addition to codes, permits trade groups and also individual employers to make AGREEMENTS WITH THE PRESIDENT HIMSELF to do their part in this great effort. We are going to use additional power. This bulletin sets forth this swifter plan which is in addition to (and not in place of) codes. These new PRESIDENTIAL AGREEMENTS should be sent in by all individual employers at once as provided in paragraph 7 of this bulletin, and codes should be sent in by industries and trade associations as fast as they can be prepared as provided in Bulletin No. 2, N.R.A.

4. Time limit on Codes

In order to assist these trades and industries which are not sufficiently organized to present their codes in representative fashion and to help compose the difficult problems in other trades and industries where economic differences have delayed the submission of codes it is assumed that to all trades or industries which have not submitted codes under section 3 (a) by September 1, 1933, the President will begin to hold hearings under section 3 (d) as fast as proper notice can be given and hearings arranged.

So much for codes: The plan to create Nation-wide reemployment by PRESIDENTIAL AGREEMENTS as follows:

5. The President's reemployment drive

A truce on selfishness.--Before Labor Day--six weeks away--it is possible to solve the problem of reemployment through individual AGREEMENTS WITH THE PRESIDENT. But to do this the country must act quickly, vigorously, and boldly, as one man--get together in one powerful effort--declare a truce on selfishness. In this mass attack on depression there is a clear-cut part for every group. Members of each group are invited to become members of N.R.A. on the plan set forth in this bulletin.

The employers' part is to act at once and all together to submit and scrupulously comply with AGREEMENTS WITH THE PRESIDENT to shorten hours and raise wages and to cooperate with employees in peaceful adjustment of differences. The way to make these agreements is shown in paragraph 7.

The employees' part is to do their best on the job and to cooperate with N.R.A. and employers in peaceful adjustment of differences. More can be now done for workers through this cooperation of 125,000,000 people than can ever be done by discord and dispute.

The public's part--and especially the part of women (who control the bulk of buying)--is to support all those employers and employees who do their parts to put breadwinners back to work.

6. Employers' badge of cooperation

For the public to do its part, it must know which employers have done their part to put people back to work by making these AGREEMENTS with the President and by codes. Every industry and every employer who has agreed with the President on this plan, or who has had approved a code covering the vital subject of reemployment, will be enrolled as a member of N.R.A. and given a certificate and a Government badge showing the seal of N.R.A. and the words: "Member N.R.A. We do our part." It will be authorized to show this badge on all its equipment, goods, communications, and premises. Lists of all employers authorized to use this badge will be on file at all post offices so that any misrepresentation by unauthorized use of N.R.A. badges can be prevented.

7. Employers' agreements with the President

During the three days beginning July 27, letter carriers will deliver at each place of business a message from the President, accompanied by a copy of the form of the President's Reemployment Agreement; a certificate of compliance form, and a return envelope addressed to the district office of the Department of Commerce. Any employer who has not received this material by July 29 can obtain it from his local postmaster.

Each employer who wants to do his part will sign the agreement and mail it in the return envelope.

On or after August 1, each employer who has signed his agreement and put it into effect may sign the certificate of compliance, take it to his post office, and receive the posters, etc., which evidence his membership in the N.R.A.

The district offices of the Department of Commerce will prepare each week a list of agreements received from each town, and will send one copy to Washington and one copy to the post office, where it will be posted for public inspection. Postmasters will send certificates of compliance to the district offices, where they will be checked off against the list.

8. Consumers' badge of cooperation

Every consumer in the United States who wishes to cooperate in the President's reemployment drive and be considered as a member in N.R.A. may at any time after August 1, 1933, go to the authorized establishment in his locality (to be announced later) and sign a statement of cooperation as follows:

"I will cooperate in reemployment by supporting and patronizing employers and workers who are members of N.R.A."

Any such signer will then be given and may thereafter use the insignia of consumer membership in N.R.A.

9. District recovery boards

There is hereby created one district recovery board of seven members for each district of the Department of Commerce to be appointed by the President. The board will consist of one person prominent in each manufacture, retail trade, wholesale trade, banking, farming, labor, and social service who is willing to volunteer his services without compensation. The local district manager of the Department of Commerce will serve as secretary of the board. The board will consider, advise, and report to N.R.A. on the progress of the execution of N.I.R.A. and will pass upon such matters as shall be referred to it for action by N.R.A.

10. State recovery boards

There is hereby created for each State a State recovery board of nine members from each State to be appointed by the President. The board

shall serve without compensation and shall select its chairman and secretary from among its own members.

The memberships will be truly representative of commercial, industrial, labor, and civic interests of each State. The State boards will advise and report upon the execution of N.I.R.A. in their States and receive and act upon all matters referred to them by N.R.A. or by their district boards. Each governor will be notified of the appointment of the State board and it will meet at the call of the governor. At the first meeting it will organize and decide upon and promulgate its own rules and procedure.

11. State recovery council

There is hereby created, to be organized by and to serve in cooperation with each State board, a State recovery council. Upon application to the State recovery board by any State labor, manufacturing, trade, civic, social-service or welfare association, organization, or club, the presiding officer thereof is entitled, ex officio, to membership on the State recovery council. The function of the council is to recommend to the board any necessary action with regard to the organization presided over by any member of the council, to request the services of the board and of N.R.A. in any proper matter to the end of perfecting and strengthening any such organization, and to assist to make available to the Administration of N.R.A. the services of any such organization.

12. General statement of policy and purpose

There is no force here except conscience and opinion. This is an appeal to those good instincts of our people which have never been besought in vain. But it is not a ballyhoo campaign. The plan is new; the agreement is not simple and a thorough public program of explanation is needed and will be carried out. After four years of hopeless and seemingly helpless suffering and inaction, it would be unforgivable not to open to the country the chance it now has under this law to unite once more to overcome an emergency and, it may be, to defeat depression.

This is a test of patriotism. It is the time to demonstrate the faith of our fathers and our belief in ourselves. We are a people disciplined by democracy to a self-control--sufficient to unite our purchasing power--our labor power--our management power to carry out this great national covenant with vigor, with determination but with the calm composure and fair play which should always mark the American way.

Hugh S. Johnson, Administrator.

Approved by:
National Industrial Recovery Board
Daniel C. Roper,
Chairman

PRESIDENT'S REEMPLOYMENT AGREEMENT

(Authorized by section 4 (a) National Industrial Recovery Act)

During the period of the President's emergency reemployment drive, that is to say, from August 1 to December 31, 1933, or to any earlier date of approval of a code of fair competition to which he is subject, the undersigned hereby agrees with the President as follows:

(1) After August 31, 1933, not to employ any person under 16 years of age, except that persons between 14 and 16 may be employed (but not in manufacturing or mechanical industries) for not to exceed 3 hours per day and those hours between 7 a.m. and 7 p.m. in such work as will not interfere with hours of day school.

(2) Not to work any accounting, clerical, banking, office, service, or sales employees (except outside salesmen) in any store, office, department, establishment, or public utility, or on any automotive or horse-drawn passenger, express, delivery, or freight service, or in any other place or manner, for more than 40 hours in any 1 week and not to reduce the hours of any store or service operation to below 52 hours in any 1 week, unless such hours were less than 52 hours per week before July 1, 1933, and in the latter case not to reduce such hours at all.

(3) Not to employ any factory or mechanical worker or artisan more than a maximum week of 35 hours until December 31, 1933, but with the right to work a maximum week of 40 hours for any 6 weeks within this period; and not to employ any worker more than 8 hours in any 1 day.

(4) The maximum hours fixed in the foregoing paragraphs (2) and (3) shall not apply to employees in establishments employing not more than two persons in towns of less than 2,500 population which towns are not part of a larger trade area; nor to registered pharmacists or other professional persons employed in their profession; nor to employees in a managerial or executive capacity, who now receive more than $35 per week; nor to employees on emergency maintenance and repair work; nor to very special cases where restrictions of hours of highly skilled workers on continuous processes would unavoidably reduce production but, in any such special case, at least time and one-third shall be paid for hours worked in excess of the maximum. Population for the purposes of this agreement shall be determined by reference to the 1930 Federal census.

(5) Not to pay any of the classes of employees mentioned in paragraph (2) less than $15 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than $14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; nor less than $14 per week in any city of between 2,500 and 250,000 population, or in the immediate trade area of such city; and in towns of less than 2,500 population to increase all wages by not less than 20 percent, provided that this shall not require wages in excess of $12 per week.

(6) Not to pay any employee of the classes mentioned in paragraph (3) less than 40 cents per hour unless the hourly rate for the same class

of work on July 15, 1929, was less than 40 cents per hour, in which latter case not to pay less than the hourly rate on July 15, 1929, and in no event less than 30 cents per hour. It is agreed that this paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or on a piecework performance.

(7) Not to reduce the compensation for employment now in excess of the minimum wages hereby agreed to (notwithstanding that the hours worked in such employment may be hereby reduced) and to increase the pay for such employment by an equitable readjustment of all pay schedules.

(8) Not to use any subterfuge to frustrate the spirit and intent of this agreement which is, among other things to increase employment by a universal covenant, to remove obstructions to commerce, and to shorten hours and to raise wages for the shorter week to a living basis.

(9) Not to increase the price of any merchandise sold after the date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in production, replacement, or invoice costs of merchandise, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act, since July 1, 1933, and, in setting such price increases, to give full weight to probable increases in sales volume and to refrain from taking profiteering advantage of the consuming public.

(10) To support and patronize establishments which also have signed this agreement and are listed as members of N.R.A. (National Recovery Administration).

(11) To cooperate to the fullest extent in having a code of fair competition submitted by his industry at the earliest possible date, and in any event before September 1, 1933.

(12) Where, before June 16, 1933, the undersigned had contracted to purchase goods at a fixed price for delivery during the period of this agreement, the undersigned will make an appropriate adjustment of said fixed price to meet any increase in cost caused by the seller having signed this President's Reemployment Agreement or having become bound by any code of fair competition approved by the President.

(13) This agreement shall cease upon approval by the President of a code to which the undersigned is subject; or, if the N.R.A. so elects, upon submission of a code to which the undersigned is subject and substitution of any of its provisions for any of the terms of this agreement.

(14) It is agreed that any person who wishes to do his part in the President's reemployment drive by signing this agreement, but who asserts that some particular provision hereof, because of peculiar circumstances, will create great and unavoidable hardship, may obtain the benefits hereof by signing this agreement and putting it into effect and then, in a petition approved by a representative trade association of his industry, or other representative organization designated by N.R.A., may apply for

a stay of such provision pending a summary investigation by N.R.A., if he agrees in such application to abide by the decision of such investigation. This agreement is entered into pursuant to section 4 (a) of the National Industrial Recovery Act and subject to all the terms and conditions required by section 7 (a) and 10 (b) of that act.

Dated _____,1933.

(Sign here) _____
(Name)

_____
(Official position)

_____
(Firm and corporation name)

_____
(Industry or trade)

_____
(Number of employees at the date of signing)

_____
(Street)

_____ _____
(Town or city) (State)

APPENDIX VIII

Administrative Order No. X - 80

APPROVING ONE FORM OF ADMINISTRATOR'S TERRITORIAL COOPERATION AGREEMENT

Being empowered by Executive Order No. 6750-A, dated June 27, 1934, to enter into agreements pursuant to Section 4 (a) of the National Industrial Recovery Act with persons engaged in trade or industry in Puerto Rico or in the Territories of Hawaii and Alaska, and having in Office Order No. 102 dated July 14, 1934, indicated a desire to approve the form of agreement to be entered into pursuant to Administrative Order No. X-60 dated July 2, 1934;

NOW THEREFORE, I approve the form of Administrator's Territorial Cooperation Agreement which is attached hereto and marked by me as "Exhibit A".

HUGH S. JOHNSON
Administrator for Industrial
Recovery

Approval Recommended:

Linton M. Collins,
Acting Division Administrator

Washington, D. C.

August 27, 1934

EXHIBIT "A".

ADMINISTRATOR'S TERRITORIAL COOPERATION AGREEMENT

(Authorized by Section 4(a) of the National Industrial Recovery Act, and Executive Order of June 27, 1934.)

The undersigned hereby agrees with the Administrator for Industrial Recovery as follows:

(1) This Agreement shall become effective upon approval thereof by the Administrator, and shall be and remain in effect until: (a) A separate code, or modification of mainland code, for the Territory, to which the undersigned is subject, has been approved by the President; or (b) The Deputy Administrator for the Territory of _____ shall order its termination; or (c) In any event, not later than June 15, 1935.

(2) The term "employee" as used herein includes any and all persons engaged in the trade/industry of the undersigned however compensated.

(3) No employee shall be permitted to work in excess of _____hours in any one week, or _____ hours in any one day, except for _____ weeks in any calendar year, any employee may be permitted to work not more than _____ hours per week, or _____ hours per day. However, before undertaking to work any employees for the____hoursper week, or _____ hours per day, permitted in the above exception, the undersigned will notify the Deputy Administrator for _____ by letter addressed to him at _____ of the intention to work employees for such period during specified weeks. All hours in excess of _____ per day or _____ per week shall be paid for at not less than one and _____ times the employee's regular rate of pay.

(4) The provisions of Paragraph 3 shall not apply to employees engaged in emergency maintenance or emergency repair work involving breakdown or the protection of life or property, nor to persons employed in a managerial or executive capacity who earn regularly _____ dollars per week or more; provided, however, that employees engaged in such emergency maintenance and emergency repair work shall be paid at one and _____ times their normal rate for all hours worked in excess of _____ hours per week.

(5) No employee shall be paid in any pay period less than at the rate of _____ per week for _____ hours of labor. It is agreed that this paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of time rate or on a piece-work performance.

(6) Not to make any reduction in the full-time weekly earnings of any employee whose normal full-time weekly hours are reduced by _____ per cent, or less, below those existing for the four weeks ending _____. When the normal full-time weekly hours of an employee are reduced by more than said per cent, the full-time weekly wage of such employee shall not be reduced by more than one-half of the percentage of hour reduction above said per cent. In no event shall hourly rates of pay be reduced, irrespective of whether compensation is actually paid on an hourly, weekly

or other basis, nor shall any wages be at less than the minimum wages herein provided. Within _____ days of the date hereof, (unless such adjustment has been made theretofore) the undersigned shall adjust the schedules of wages of his employees in such an equitable manner as will conform to the provisions hereinabove set forth, and still preserve wage differentials reasonably proportionate to those in effect prior to the date of this Agreement.

(7) No person under sixteen (16) years of age shall be employed by the undersigned in any capacity. No person under eighteen (18) years of age shall be employed at operations or at occupations which are hazardous in nature or are dangerous to health. The undersigned shall submit to the Deputy Administrator for _____ for approval before _____, 1934, a list of such operations or occupations, if any. The undersigned shall be deemed to have complied with this provision as to age if he shall have on file a valid certificate or permit duly signed by the authority in such territory or possession empowered to issue employment or age certificates or permits showing that the employee is of the required age.

(8) Learners or apprentices, not to exceed one in _____ of the total number of employees, may be employed by the undersigned and shall be paid not less than _____% of the minimum wage herein provided for during the first _____ weeks of their employment in the trade or industry, and not less than _____% of the minimum wage during the second _____ weeks of such employment. The undersigned will not knowingly employ as a learner or apprentice any person who has been employed in the trade or industry except for the remainder of the period of the _____ weeks training which has not already been served.

(9) A person whose earning capacity is limited because of age, physical, or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this Code, if the undersigned obtains from the proper authority designated by the United States Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate. The undersigned shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

(10) To make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

(11) Not to use any subterfuge to frustrate the spirit and intent of this Agreement which is among other things, to increase employment by this covenant, to remove obstructions to commerce, and to shorten hours and to raise wages for the shorter week to a living basis.

(12) Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases should be delayed and that when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

(13) To support and patronize establishments which have also signed an Administrator's Territorial Cooperation Agreement or are operating under an approved Code.

(14) To display official copies of this Agreement or of the provisions hereof with respect to hours of labor, rates of pay, and other conditions of employment, and to see that such official copies are posted conspicuously and in sufficient number so that all employees may freely and conveniently read the same.

(15) That he will not dismiss or demote any employee for making a complaint or giving evidence with respect to an alleged violation of the provisions of the National Industrial Recovery Act, or an approved Code of Fair Competition, or of this and other Agreements of the same nature.

(16) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(17) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(18) The undersigned shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

(19) This Agreement is not intended and will not be permitted to promote monopolies or to eliminate or oppress small enterprises and will not be permitted to operate in a discriminatory manner against them but is intended to effectuate the policy of Title I of the National Industrial Recovery Act.

(20) This Agreement and all the provisions thereof are expressly made subject to the right of the President, pursuant to Section 10(a) of the National Industrial Recovery Act, to cancel or modify the approval given to this Agreement.

(21) It is understood by the undersigned that the President may by rule or regulation prescribe that all of the provisions of this Agreement shall be observed, in which event the undersigned in violating this Agreement may become subject to punishment by a fine of not to exceed five hundred ($500) dollars and imprisonment of not to exceed six (6) months or both.

(22) The undersigned further understands that in all cases where an exemption has been conditioned upon the making of this Agreement any breach of said Agreement by the undersigned may operate forthwith to terminate both this Agreement and such exemption, and that the undersigned immediately may become subject to the applicable Code of Fair Competition.

Date_____, 1934.

(Signed here) _____
(Name)

_____
(Official Position)

_____
(Firm and corporation name)

_____
(Industry or trade)

_____
(Number of employees at the date of signing)

_____
(Street)

_____
(Town or city)

_____
(State)

The Administrator for Industry Recovery
_____

Washington, D.C.

Date:_____

(To be signed in duplicate - a copy when approved and signed by the Administrator will be returned.) 114-115

APPENDIX IX

OFFICE INSTRUCTION

NO. 28

September 30, 1935

VOLUNTARY AGREEMENTS

The attached announcement from the White House dated September 30, 1935, is distributed to officials of the organization for their information.

L. J. Martin
Acting Administrator
National Recovery Administration

The White House announced that, to assist industry in taking advantage of the suggestion of the President as to the use of the opportunities afforded by the National Industrial Recovery Act for voluntary agreements under NIRA, the President had by Executive Order No. 7192 of September 26, 1935, delegated to the Federal Trade Commission authority to approve certain trade practice provisions contained in voluntary agreements submitted pursuant to section 4 (a) of Title I of said Act.

In a letter of August 24, 1935, to Senator Harrison and Chairman Doughton the President said:

> "Pending determination by the Congress of whether further industrial legislation will be enacted, it is hoped that industrial groups will, in increasing numbers, avail themselves of the provisions of the Joint Resolution extending National Industrial Recovery Administration which permit agreements (1) putting into effect the requirements of Section 7 (a), minimum wages, maximum hours and prohibition of child labor, and (2) prohibiting unfair competitive practices which offend against existing law. Such agreements, when approved by the President, as to matters covered by the Joint Resolution, are exempted expressly from the penalties of the antitrust laws, including criminal prosecutions, injunctions and treble damages. By such action, industry can undoubtedly do much to preserve the very substantial gains made while the codes were in effect. Applications for approval of such agreements should be filed with the Federal Trade Commission.
>
> "Industry may continue to take advantage of the familiar trade practice conference procedure of the Federal Trade Commission."

The President has requested the Federal Trade Commission and the National Recovery Administration to cooperate in handling voluntary agreements under NIRA in the following manner:

1. All proposed agreements for voluntary industrial cooperation submitted under NIRA extended shall be filed at the office of the Federal Trade Commission. If in addition to provisions for collective bargaining, maximum hours, minimum wages, etc., as required by Section 7a of NIRA, any such agreement also contains trade practice provisions covered by numbered clause 2 of the proviso of Section 2 of the Joint Resolution extending NIRA, each of the two classes of provisions shall appear in a separate title, viz:

> Title (a) Provisions covered by numbered clause 1 of the proviso of Section 2 of the Joint Resolution extending NIRA, viz. provisions putting into effect the requirements of Section 7a, including minimum wages, maximum hours and prohibition of child labor. This class of provisions is hereinafter referred to as "labor provisions".
>
> Title (b) Trade practice provisions covered by numbered clause 2 of the proviso of Section 2 of the Joint Resolution extending

NIRA, viz. "trade practice provisions prohibiting unfair competitive practices which offend against existing law, including the antitrust laws, or which constitute unfair methods of competition, under the Federal Trade Commission Act, as amended."

The proponent of any such proposed agreement for voluntary industrial cooperation may file simultaneously therewith, at the office of the Federal Trade Commission, any other provisions, viz. provisions not entitled to exemptions under either numbered clause 1 or numbered clause 2 of the proviso of Section 2 of the Joint Resolution extending NIRA, it being understood that such provisions are submitted for approval of the Commission under its trade practice conference procedure.

2. Promptly upon the filing of a proposed voluntary industrial agreement with the Federal Trade Commission, the Trade Commission shall refer the title containing "labor provisions", to NRA. NRA shall consider such proposed labor provisions through a mechanism similar to that which it has used in the past, including a Labor Advisory Unit and an Industrial Advisory Unit, (set up in conference with the Department of Labor and the Department of Commerce, respectively), and the holding of open hearings. As a result of such procedure, NRA shall in due course determine whether or not to recommend approval of the proposed "labor provisions".

3. Having made its decision; NRA shall return such provisions and recommendations, supported by a transcript of the hearings and its findings of fact, to the Trade Commission.

4. Pending consideration of the labor provisions of the proposed voluntary industrial agreement by NRA, the Trade Commission shall examine such agreement to see whether it includes a title containing trade practice provisions covered by numbered clause 2 of the proviso of Section 2 of the Joint Resolution extending NIRA. If the agreement contains such title the Commission shall proceed after notice, hearings and other procedure duly had to determine whether or not to approve or disapprove the same. If its determination shall be in favor of disapproval, the Commission shall forthwith make an order to such effect under authority delegated to it by Executive Order No. 7192 of September 26, 1935, and specifically referring to such Executive Order. If the Commission shall favor approval of such trade practice provisions, the Commission shall transmit to the President the labor provisions and recommendation of NRA, if favorable, together with a statement as to the Commission's approval of the other provisions of the agreement, for the President's action on the labor provisions. The Commission shall await receipt from the President of notification of his action upon the labor provisions of such agreement and upon notification of such approval shall make an order approving such trade practice provisions under the authority delegated to it by the said Executive Order No. 7192, and specifically referring to such Executive Order. After approval by the President and the Federal Trade Commission, the agreement shall become binding upon the parties thereto in accordance with its terms. If the Commission shall be notified by the President that he has disapproved the labor provisions of such agreement, the proponents shall be at liberty to request the Commission

to consider such trade practice provisions under its trade practice conference procedure as herein below mentioned or to withdraw the same.

5. The Federal Trade Commission shall have physical custody of completed voluntary agreements.

6. While the labor and trade practice provisions are under consideration, the proponent of the agreement may submit to the respective governmental agencies considering them modifications of such provisions or may agree to proposed modifications. Applications for amendments after approval shall be handled in the same manner as original applications.

7. If proponents of a voluntary agreement for industrial cooperation file with the Trade Commission under NIRA extended, a title containing labor provisions and also a title containing trade practice provisions covered by numbered clause 2 of the proviso of Section 2 of the Joint Resolution extending NIRA and at the same time file other and additional provisions not entitled to exemptions under said Joint Resolution, the Trade Commission shall proceed to act upon such other and additional provisions under its established trade practice conference procedure.

8. Proponents of an agreement for voluntary industrial cooperation may, if they so desire, submit to the Trade Commission trade practice provisions which are covered by numbered clause 2 of the proviso of Section 2 of the Joint Resolution extending NIRA for consideration and action by the Commission under the trade practice conference procedure, rather than under NIRA extended, it being understood that the approval by the Trade Commission under that procedure does not carry the exemption conferred by the Joint Resolution extending NIRA. Where such trade practice provisions are submitted for consideration and action under the trade practice procedure, they need not be accompanied by labor provisions.

Form 38-A

APPENDIX X

DOCUMENTS TO BE SUBMITTED WITH CODES

	Already Submitted	Needed
1. 12 copies of code		
2. 4 copies of completed Application Form.		
3. 7 copies of constituion and by-laws of the Trade Association.		
4. 12 copies of letter of transmittal, including any statement or discussion of conditions in the industry, and the relation of provisions of the code to those conditions. (4 must be signed.)		
5. 8 copies of list of members of association, including addresses.		
6. 7 copies of certified copy of Minutes or other authorization of association authorizing the presentation of a code		

N.B. One copy of the five attached application forms may be retained for your files.

MEMORANDUM OF CODE FORM

SECTION I. Title and Preamble.

SECTION II. Definitions of Scope of Industry and Terminology of Code.

SECTION III. Labor Provisions:
- A. Mandatory Requirements of Industrial Recovery Act. Part 1, Section 7 (a).
- B. Prohibition of Child Labor.
- C. Wage Rates.
- D. Hours of Work.

SECTION IV. Provisions regarding Trade Practices.

SECTION V. Description of Industry self-government agency and its requirements.

SECTION VI. Mandatory provisions of Section 10 (b) of Act.

SECTION VII. Provision for Modification.

SECTION VIII. Effective date.

SECTION IX. Signature.

APPLICATION FOR PRESENTATION OF A CODE OF FAIR COMPETITION

To the

NATIONAL RECOVERY ADMINISTRATION
Code Record Section
Washington, D.C.

General Instructions

1. Four copies of this Application for Presentation of a Code of Fair Competition must be filed in the prescribed form by an authorized representative of a trade association or an industry.

2. Application forms may be secured from the Code Record Section of the National Recovery Administration either by writing for them or calling in person.

3. The Code Record Section will furnish assistance in preparing applications.

4. After an analysis of the application the applicant will be referred to a member of the Administration staff to review the Code and prepare it for presentation to the Deputy Administrator who will be assigned to conduct the Public Hearing.

5. Industries should not unduly delay the filing of an application or a code because of an attempt to secure accurate data as herein indicated. Where no statistics are available, estimates are desired.

6. Whenever deemed necessary by an industry on account of peculiar conditions therein, the application may be accompanied by a statement discussing those features of the industry and the provisions of the proposed code designed to meet these problems.

Form 191.

Release No. 504

N.R.A. Office Classification	
General	#
Specific	#
Cross Index	

NATIONAL RECOVERY ADMINISTRATION
Information Requested on Industries, Industrial Groups, and Trade Associations

Part I - Industry Information

* * *

Filing Code _____
Address _____
City and State _____ Date Established _____

A. INDICATE FUNCTION OF BUSINESS REPRESENTED

☐ Manufacturers ☐ Wholesalers, Jobbers, Brokers

☐ Retailers ☐ Contractors (Building)

☐ Service ☐ Mining

☐ Transportation

B. PRODUCTS OF INDUSTRY
Briefly describe products, products, or services.

_____

_____

_____

2. (FOR MANUFACTURERS ONLY): Briefly describe product, products, or services of other industries which are competitive with your products

_____

_____

_____

_____

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C. SCOPE OF INDUSTRY REPRESENTED IN APPLICATION

☐ National ☐ Regional Including _____

_____

☐ State Name _____ ☐ Local Including _____

_____

(As of December 31)

D. SIZE OF INDUSTRY

(Use estimates when exact figures are unobtainable.)

	1928	1929	1930
1. Number of concerns	_____	_____	_____
2. Aggregate number of employees	_____	_____	_____
3. Aggregate invested capital	$_____	$_____	$_____
4. Aggregate annual sales or production, in dollars or units	$_____	$_____	$_____
5. Aggregate production capacity, by units or dollars (for manufacturing industry only)	$_____	$_____	$_____

(NOTE: Use the same basis in answering numbers 4 and 5)

	1931	1932	1933
1. Number of concerns	_____	_____	_____
2. Aggregate number of employees	_____	_____	_____
3. Aggregate invested capital	$_____	$_____	$_____
4. Aggregate annual sales or production, in dollars or units	$_____	$_____	$_____
5. Aggregate production capacity by units or dollars (for manufacturing industry only)	$_____	$_____	$_____

(NOTE: Use the same basis in answering numbers 4 and 5)

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TRADE ASSOCIATIONS

1. List the National Trade Association or Associations representative of your industry.

Name	Address	Year Established

a. Is Association organized on a national or a regional or a combined national and regional basis? Briefly describe organization structure of your Association.

b. If the applicant represents more than one Association. Part II should be filled in for each separate association joining in making the application, and a comprehensive report of all comparable data as asked for in Part II should be submitted.

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N.R.A. Office Classification
Industry _____
Code # _____
Cross-Index
Not to be filled in by applicants

NATIONAL RECOVERY ADMINISTRATION

Part II - Trade Association Information

* * * *

A. REPRESENTATION OF ASSOCIATION.

Total Concerns in Industry (Approximate) on _____ 1933
(Date)

Total Concerns - Members _____ 1933 _____
(Month)

Total Concerns - Non-members _____ 1933 _____
(Month)

	By dollars or units	percent of Total
Total Volume of Industry (Year of 1932)	$	100%
Volume of Members (Year of 1932)	$	%
Volume of Non-Members (Year of 1932)	$	%

B. OFFICERS OF ASSOCIATION

Name	Office Held	Concern

C. COMMITTEE AUTHORIZED TO PRESENT CODE TO N.R.A.
(Indicate Representatives of Associations if more than one)

Name	Office Held	Concern

(NOTE: Attach copy of resolution or other action taken authorizing applicant(s) to present code.

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D. STATISTICS

Submit samples of all forms used in gathering statistical data. Submit the latest results of any statistical information received, indicating for how many years previous these statistics are available. Answer the following:

a. Total members reporting statistics _____

b. Total non-members reporting statistics _____

c. Percentage representation of statistics according to volume of all concerns in the Industry. _____

Remarks: _____

_____

_____

_____

_____

E. CONSTITUTION AND BY-LAWS

Submit seven copies of constitution and by-laws of the association or associations submitting the code.

Date _____ Signature _____

(Typed) _____

Form 191-547.

OFFICE OF THE NATIONAL RECOVERY ADMINISTRATION
THE DIVISION OF REVIEW

THE WORK OF THE DIVISION OF REVIEW

Executive Order No. 7075, dated June 15, 1935, established the Division of Review of the National Recovery Administration. The pertinent part of the Executive Order reads thus:

> The Division of Review shall assemble, analyze, and report upon the statistical information and records of experience of the operations of the various trades and industries heretofore subject to codes of fair competition, shall study the effects of such codes upon trade, industrial and labor conditions in general, and other related matters, shall make available for the protection and promotion of the public interest an adequate review of the effects of the Administration of Title I of the National Industrial Recovery Act, and the principles and policies put into effect thereunder, and shall otherwise aid the President in carrying out his functions under the said Title.

The study sections set up in the Division of Review covered these areas: industry studies, foreign trade studies, labor studies, trade practice studies, statistical studies, legal studies, administration studies, miscellaneous studies, and the writing of code histories. The materials which were produced by these sections are indicated below.

Except for the Code Histories, all items mentioned below are scheduled to be in mimeographed form by April 1, 1936.

THE CODE HISTORIES

The Code Histories are documented accounts of the formation and administration of the codes. They contain the definition of the industry and the principal products thereof: the classes of members in the industry; the history of code formation including an account of the sponsoring organizations, the conferences, negotiations and hearings which were held, and the activities in connection with obtaining approval of the code; the history of the administration of the code, covering the organization and operation of the code authority, the difficulties encountered in administration, the extent of compliance or non-compliance, and the general success or lack of success of the code; and an analysis of the operation of code provisions dealing with wages, hours, trade practices, and other provisions. These and other matters are canvassed not only in terms of the materials to be found in the files, but also in terms of the experiences of the deputies and others concerned with code formation and administration.

The Code Histories, (including histories of certain NRA units or agencies) are not mimeographed. They are to be turned over to the Department of Commerce in typewritten form. All told, approximately eight hundred and fifty (850) histories will be completed. This number includes all of the approved codes and some of the unapproved codes. (In Work Materials No. 18, Contents of Code Histories, will be found the outline which governed the preparation of Code Histories.)

(In the case of all approved codes and also in the case of some codes not carried to final approval, there are in NRA files further materials on industries. Particularly worthy of mention are the Volumes I, II and III which constitute the material officially submitted to the President in support of the recommendation for approval of each code. These volumes

set forth the origination of the code, the sponsoring group, the evidence advanced to support the proposal, the report of the Division of Research and Planning on the industry, the recommendations of the various Advisory Boards, certain types of official correspondence, the transcript of the formal hearing, and other pertinent matter. There is also much official information relating to amendments, interpretations, exemptions, and other rulings. The materials mentioned in this paragraph were of course not a part of the work of the Division of Review.)

THE WORK MATERIALS SERIES

In the work of the Division of Review a considerable number of studies and compilations of data (other than those noted below in the Evidence Studies Series and the Statistical Materials Series) have been made. These are listed below, grouped according to the character of the material. (In Work Materials No. 17, Tentative Outlines and Summaries of Studies in Process, these materials are fully described).

Industry Studies

Automobile Industry, An Economic Survey of
Bituminous Coal Industry under Free Competition and Code Regulation, Economic Survey of
Construction Industry and NRA Construction Codes, the
Electrical Manufacturing Industry, The
Fertilizer Industry, The
Fishery Industry and the Fishery Codes
Fishermen and Fishing Craft, Earnings of
Foreign Trade under the National Industrial Recovery Act
  Part A - Competitive Position of the United States in International Trade 1927-29 through 1934.
  Part B - Section 3 (e) of NIRA and its administration.
  Part C - Imports and Importing under NRA Codes.
  Part D - Exports and Exporting under NRA Codes.
Forest Products Industries, Foreign Trade Study of the
Iron and Steel Industry, The
Knitting Industries, The
Leather and Shoe Industries, The
Lumber and Timber Products Industry, Economic Problems of the
Men's Clothing Industry, The
Millinery Industry, The
Motion Picture Industry, The
Migration of Industry, The: The Shift of Twenty-Five Needle Trades From New York State, 1926 to 1934
National Income, A study of,
Paper Industry, The
Production, Prices, Employment and Payrolls in Industry, Agriculture and Railway Transportation, January 1923, to date
Retail Trades Study, The
Rubber Industry Study, The
Statistical Background of NRA
Textile Industry in the United Kingdom, France, Germany, Italy, and Japan
Textile Yarns and Fabrics
Tobacco Industry, The
Wholesale Trades Study, The
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Women's Apparel Industry, Some Aspects of the

Trade Practice Studies

Commodities, Information Concerning: A Study of NRA and Related Experiences in Control
Distribution, Manufacturers' Control of: A Study of Trade Practice Provisions in Selected NRA Codes
Design Piracy: The Problem and Its Treatment Under NRA Codes
Electrical Mfg. Industry: Price Filing Study
Fertilizer Industry: Price Filing Study
Geographical Price Relations Under Codes of Fair Competition, Control of
Minimum Price Regulation Under Codes of Fair Competition
Multiple Basing Point System in the Lime Industry: Operation of the
Price Control in the Coffee Industry
Price Filing Under NRA Codes
Production Control Under NRA Codes, Some Aspects of,
Resale Price Maintenance Legislation in the United States
Retail Price Cutting, Restriction of, with special Emphasis on The Drug Industry.
Trade Practice Rules of The Federal Trade Commission (1914-1936): A classification for comparison with Trade Practice Provisions of NRA Codes.

Labor Studies

Employment, Payrolls, Hours, and Wages in 115 Selected Code Industries 1933-1935
Hours and Wages in American Industry
Labor Program Under the National Industrial Recovery Act, The
  Part A. Introduction
  Part B. Control of Hours and Reemployment
  Part C. Control of Wages
  Part D. Control of Other Conditions of Employment
  Part E. Section 7(a) of the Recovery Act
PRA Census of Employment, June, October,1933
Puerto Rico Needlework, Homeworkers Survey

Administrative Studies

Administrative and Legal Aspects of Stays, Exemptions and Exceptions, Code Amendments, Conditional Orders of Approval
Administrative Interpretations of NRA Codes
Administrative Law and Procedure under the NIRA
Agreements Under Sections 4(a) and 7(b) of the NIRA
Approved Codes in Industry Groups, Classification of
Basic Code, the -- (Administrative Order X-61)
Code Authorities and Their Part in the Administration of the NIRA
  Part A. Introduction
  Part B. Nature, Composition and Organization of Code Authorities
  Part C. Activities of the Code Authorities
  Part D. Code Authority Finances
  Part C. Summary and Evaluation
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Code Compliance Activities of the NRA
Code Making Program of the NRA in the Territories, The
Code Provisions and Related Subjects, Policy Statements Concerning
Content of NIRA Administrative Legislation
  Part A. Executive and Administrative Orders
  Part B. Labor Provisions in the Codes
  Part C. Trade Practice Provisions in the Codes
  Part D. Administrative Provisions in the Codes
  Part E. Agreements under Sections 4(a) and 7(b)
  Part F. A Type Case: The Cotton Textile Code
Labels Under NRA, A Study of
Model Code and Model Provisions for Codes, Development of
National Recovery Administration, The: A Review and Evaluation of its Organization and Activities
NRA Insignia
President's Reemployment Agreement, The
President's Reemployment Agreement, Substitutions in Connection with the
Prison Labor Problem under NRA and the Prison Compact, The
Problems of Administration in the Overlapping of Code Definitions of Industries and Trades, Multiple Code Coverage, Classifying Individual Members of Industries and Trades
Relationship of NRA to Government Contracts and Contracts Involving the Use of Government Funds
Relationship of NRA with other Federal Agencies
Relationship of NRA with States and Muncipalities
Sheltered Workshops Under NRA
Uncodified Industries: A Study of Factors Limiting the Code Making Program

Legal Studies

Anti-Trust Laws and Unfair Competition
Collective Bargaining Agreements, the Right of Individual Employees to Enforce Provisions of
ommerce Clause, Possible Federal Regulation of the Employer-Employee Relationship Under the
Delegation of Power, Certain Phases of the Principle of, with Reference to Federal Industrial Regulatory Legislation
Enforcement, Extra-Judicial Methods of
Federal Regulation through the Joint Employment of the Power of Taxation and the Spending Power
Government Contract Provisions as a Means of Establishing Proper Econ mic Standards, Legal Memorandum on Possibility of
Intrastate Activities Which so Affect Interstate Commerce as to Bring them Under the Commerce Clause, Cases on
Legislative Possibilities of the State Constitutions
Post Office and Post Road Power -- Can it be Used as a Means of Federal Industrial Regulation?
State Recovery Legislation in Aid of Federal Recovery Legislation History and Analysis
Tariff Rates to Secure Proper Standards of Wages and Hours, the Possibility of Variation in
Trade Practices and the Anti-Trust Laws
Treaty Making Power of the United States
War Power, Can it be Used as a Means of Federal Regulation of Child Labor?
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THE EVIDENCE STUDIES SERIES

The Evidence Studies were originally undertaken to gather material for pending court cases. After the Schechter decision the project was continued in order to assemble data for use in connection with the studies of the Division of Review. The data are particularly concerned with the nature, size and operations of the industry; and with the relation of the industry to interstate commerce. The industries covered by the Evidence Studies account for more than one-half of the total number of workers under codes. The list of these studies follows:

Automobile Manufacturing Industry
Automotive Parts and Equipment Industry
Baking Industry
Boot and Shoe Manufacturing Industry
Bottled Soft Drink Industry
Builders' Supplies Industry
Canning Industry
Chemical Manufacturing Industry
Cigar Manufacturing Industry
Coat and Suit Industry
Construction Industry
Cotton Garment Industry
Dress Manufacturing Industry
Electrical Contracting Industry
Electrical Manufacturing Industry
Fabricated Metal Products Mfg. Industry and Metal Finishing and Metal Coating Industry
Fishery Industry
Furniture Manufacturing Industry
General Contractors Industry
General Contractors Industry
Graphic Arts Industry
Graphic Arts Industry
Gray Iron Foundry Industry
Hosiery Industry
Infant's and Children's Wear Industry
Iron and Steel Industry
Leather Industry
Lumber and Timber Products Industry
Mason Contractors Industry
Men's Clothing Industry
Motion Picture Industry
Motor Vehicle Retailing Trade
Needlework Industry of Puerto Rico
Painting and Paperhanging Industry
Photo Engraving Industry
Plumbing Contracting Industry
Retail Lumber Industry
Retail Trade Industry
Retail Tire and Battery Trade Industry
Rubber Manufacturing Industry
Rubber Tire Manufacturing Industry
Shipbuilding Industry
Silk Textile Industry
Structural Clay Products Industry
Throwing Industry
Trucking Industry
Waste Materials Industry
Wholesale and Retail Food Industry
Waste Materials Industry
Wholesale and Retail Food Industry
Wholesale Fresh Fruit and Vegetable Industry
Wool Textile Industry

THE STATISTICAL MATERIALS SERIES

This series is supplementary to the Evidence Studies Series. The reports include data on establishments, firms, employment, payrolls, wages, hours, production capacities, shipments, sales, consumption, stocks, prices, material costs, failures, exports and imports. They also include notes on the principal qualifications that should be observed in using the data, the technical methods employed, and the applicability of the material to the study of the industries concerned. The following numbers appear in the series:
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Asphalt Shingle and Roofing Industry
Business Furniture
Candy Manufacturing Industry
Carpet and Rug Industry
Cement Industry
Cleaning and Dyeing Trade
Coffee Industry
Copper and Brass Mill Products Industry
Cotton Textile Industry
Electrical Manufacturing Industry
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Fertilizer Industry
Funeral Supply Industry
Glass Container Industry
Ice Manufacturing Industry
Knitted Outerwear Industry
Paint, Varnish, and Lacquer, Mfg. Industry
Plumbing Fixtures Industry
Rayon and Synthetic Yarn Producing Industry
Salt Producing Industry